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PART 13.
EDUCATION

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CHAPTER 1.
STATE SUPERVISION

- Article 1. Superintendent of Public Instruction.
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- Article 3. State Board of Education.
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ARTICLE 1.
SUPERINTENDENT OF PUBLIC INSTRUCTION

§ 7385. General Supervision.
§ 7386. Duties.

§ 7387. Powers.
§ 7388. Office, Files.

§ 7385. **General Supervision.** The superintendent of public instruction shall have general supervision of all public school and of county superintendents of schools and superintendents of schools in independent districts.

Source: § 1, Ch. 135, 1907.

§ 7386.. **Duties.** It shall be the duty of the superintendent of public instruction:

1. To meet the county superintendents in convention at least once each year, at some suitable point chosen by him, and endeavor through discussion and explanation to secure and maintain a uniform and efficient administration of the school laws.

2. To inspect all high schools, either in person or through an assistant, and in his discretion to credit them to higher institutions of learning.

3. To render a written opinion touching the construction or administration of the school law to any county superintendent demanding it, and to determine all cases relating to the revocation of certificates by county superintendents that shall be appealed to him.

4. To determine the form of all blanks used in transacting the business of the public schools, and to furnish such blanks as may be required for conducting business between his department and county superintendents and superintendents in independent districts.

5. To submit a biennial report to the governor, showing in condensed form the condition and needs of the public schools and the working of the educational system throughout the state. Such report shall be made and filed in duplicate on the first day of July, or as soon thereafter as possible, and not later than the first day of November preceding the regular session of the legislature.

6. To attend teachers' normal institutes in the several counties of the state so far as is consistent with his other duties, to assist, by all means in his power, the county superintendents in the work of the county normal institutes and to prescribe rules and regulations for holding such institutes. He may, if he deems proper, employ lecturers and instructors to assist in the work of the county normal institutes, who may be paid from the moneys in the State Institute Fund.

Source: Chap. 175, S. L. 1919,

7. To prescribe the qualifications for institute conductors and shall on or before the first day of March prepare a list of the same from which list county superintendents shall engage conductors for their several institutes. He may also prescribe qualifications for other institute instructors.

Source: Chap. 175, S. L. 1919,

8. To call a meeting of county institute conductors on or before the first day of May of each year for the purpose of discussing methods relative to teaching and of outlining plans for institute work.

Source: Chap. 175, S. L. 1919.

9. To hold, at least twice each year, at such times and places as he shall select with a view to the accommodation of the applicants, a public examination of persons applying for state certificates or life diplomas.

10. To prepare all questions for the examination of teachers by the county superintendents, which shall be used exclusively in all examinations.

11. To keep a full record of all certificates issued by him and file in his office and preserve all papers relating thereto for the period for which such certificates are respectively issued.

Source: §§ 2-12, Ch. 135, 1907; § 1, Ch. 291, Ch. 140, 1909; § 1, Ch. 290, 1909; § 12,

§ 7387. Powers. The superintendent of public instruction shall have power:

1. To appoint a deputy who shall perform such duties pertaining to the office as the superintendent may direct.

§ 7388. Office, Files. The superintendent of public instruction shall have an office at the seat of government, provided by the state, in which he shall file all papers, reports and public documents transmitted to him by the county superintendents and hold the same subject to inspection by the governor or legislature, and keep a record of all matters pertaining to his office and carefully preserve and catalogue all books presented to his office, which library so formed shall be open to the teachers of the state for reference and examination.

Source: § 18, Chap. 135, 1907.

ARTICLE 2.

TEACHERS CERTIFICATES

§ 1. **Life Professional Diploma.** Life Diplomas, State Certificates and Vocational Certificates. The Superintendent of Public Instruction may issue four professional certificates: A Life Professional Diploma, A Life Diploma, A State Certificate, and a Vocational Certificate, as hereinafter provided.

He shall, semi-annually, send to each county superintendent a list of the persons to whom teachers' certificates are issued.

Provided that from and after September 1st, 1921, every applicant for Life Diploma, by examination or otherwise, must present evidence of having attended an approved normal school or educational department of an approved college or university twenty-four weeks in the aggregate.

Provided further, that from and after September 1st, 1920, every applicant for State Certificate, by examination or otherwise, must present evidence of having attended an approved normal school or educational department of an approved college or university eighteen weeks in the aggregate.

Provided further, that satisfactory evidence of five years successful experience as teacher, of having been engaged in other educational work, an equal period of time, may be accepted by the Superintendent of Public Instruction in lieu of such attendance at a normal school or approved college or university.

Provided further, that the Superintendent of Public Instruction may issue Vocational Certificates to teachers engaged exclusively in teaching manual training, domestic science, agriculture, music, drawing, commercial subjects, penmanship, kindergarten methods, or art.

Provided further, that the conditions upon which the Vocational Certificates are granted shall be uniform for any particular subject and shall be prescribed and published by the Superintendent of Public Instruction. Any Vocational Certificate as herein provided, shall be valid in any school in the state for the subjects named thereon, and no other, for a term of five years.

§ 2. A Life Professional Diploma shall be valid during good behavior and shall authorize the holder thereof to teach in any public school in the State. Applicants for this diploma shall show evidence of graduation from the State University of South Dakota or from any approved University or College having a regular course of study in which at least four (4) years' work above an approved four years high school course is required. Provided that such applicants shall in their college course have pursued a course of pedagogical studies and professional training comprising at least one fourth work during at least eighteen months.

Applicants for this diploma must show satisfactory evidence of at least seventy-two (72) months successful experience in teaching, thirty-six (36) months of which must have been within the State of South Dakota, and they shall also show evidence of good moral character.

Provided further, that the Superintendent of Public Instruction may issue to applicants who meet all the requirements for the Life Professional Diploma, but who lack the necessary teaching experience, a Provisional Diploma for such probationary period as may be necessary.

Provided further, that the Superintendent of Public Instruction may prescribe such other rules and regulations regarding the issuance of this diploma as he may deem necessary.

§ 3. **Life Diploma.** A Life Diploma shall be valid during good behavior and shall authorize the holder thereof to teach in any public school

of the state in grades below the high school and shall also authorize the holder to teach the subjects given in the first year of the high school course. Applicants shall, by examination or otherwise show satisfactory proficiency in the following branches: reading, orthography, penmanship, arithmetic, grammar and composition, geography, United States history, South Dakota history, civics, physiology and hygiene, drawing and physical geography, and shall pass a satisfactory examination in the following subjects of the pre-college grade: physics, algebra, geometry, general history, English and American literature; and in addition shall pass an examination in the following subjects of the college grade: English language and rhetoric, pedagogy including principles, methods, management, psychology, and history of education, either economics or sociology, and any two of the following: botany, zoology physics, physiology, chemistry, Latin, French Spanish, German, geology and mineralogy, astronomy, algebra, and trigonometry.

Provided, further, that a diploma from any state normal school having a regular course of study in which at least two years' work above an approved four year high school course is required, or from any other normal school or educational institution, having a regular course of study of the same extent and similar in character may be accepted in lieu of an examination in the subjects named.

An applicant for a life diploma by examination or otherwise must present evidence of at least forty (40) months' successful experience in teaching and satisfactory evidence of good moral character.

An applicant for a life diploma upon college, normal school, or other school credentials shall present a certified copy of his diploma accompanied by a certified copy of the course of study pursued, specifically showing the amount of class work in each subject, together with the standing in each branch.

§ 4. State Certificate. A State Certificate shall authorize the person to whom it is issued to teach in any of the public school of the state in grades below the high school and shall also authorize the holder to teach the subjects given in the first year of the high school course, and such Certificate shall be valid for a period of five years. Applicants for such State Certificates shall, by examination, or otherwise, show satisfactory proficiency in orthography, reading, penmanship, arithmetic, geography, English Grammar, physiology, and hygiene, United State history including South Dakota history, and shall pass a satisfactory examination in civil government, American literature, drawing, algebra, plane geometry, physical geography, physics or botany, general history, pedagogy and English language, composition and rhetoric. He must also present evidence of twenty-four months' successful experience in teaching.

Provided, that a diploma from any state normal school of South Dakota, having a course of study in which at least two years' work above an approved four year high school course is required, may be accepted in lieu of an examination in the subjects named.

Provided further, that a diploma from any other school having a course of study equivalent in extent and similar in character may be accepted in lieu of an examination in the subjects named.

Provided further, that applicant for the State Certificate, upon normal or other school credentials, must show that the course of study pursued therein contained a course of at least eighteen months of pedagogy and professional training comprising at least one-fourth work for said time. They shall present their credentials to the Superintendent of Public Instruction in the same manner as is provided for applicants for Life Diplomas. An applicant who presents evidence of graduation from a normal or other school shall also present evidence of eighteen months successful experience in teaching before being entitled to said certificate; provided that the Superintendent of Public Instruction may issue to such applicant

a Provisional Certificate for such probationary period. Every applicant for State Certificate shall submit satisfactory evidence of a good moral character.

§ 5. Provided, that until September the first, 1922 the Superintendent of Public Instruction may authorize the use of Life Diploma and State Certificates in such high schools as he may designate.

§ 6. **First Grade Certificates.** A First Grade Certificate shall be valid for not to exceed three years in any county of the state, in all branches covered by such certificate. Applicants for certificates of this grade shall pass an examination in orthography, reading writing, arithmetic, geography, English grammar, physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, history of the United States, civil government, current events, American literature, South Dakota history, drawing and didactics: Provided, that a diploma from any state normal school or any school of South Dakota having a normal department approved by the Superintendent of Public Instruction, having a course of study in which at least two years work beyond the first two years in an approved four year high school course is required, and which shall include professional instruction and practice in teaching equal to one class hour daily for two years, may be accepted by the Superintendent of Public Instruction in lieu of an examination for a First Grade Certificate: Provided, further, that from and after the first day of September, 1920, every applicant for a First Grade Certificate, by examination or otherwise, must present evidence of having attended an approved normal school or some other school approved by the Superintendent of Public Instruction twelve weeks in the aggregate; except that satisfactory evidence of three years successful experience as a teacher, or having been engaged in other educational work an equal period of time, may be accepted by the Superintendent of Public Instruction in lieu of such attendance at a normal school or approved college or university.

§ 7. **Second Grade Certificates.** A Second Grade Certificate shall be valid for not to exceed two years in all grades below the high school in the county in which the examination is held, and may similarly be made valid in any county by the indorsement of the county superintendent of the county. Applicants for certificates of this grade shall pass examination in orthography, reading, writing, arithmetic, physiology and hygiene, with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system, geography, English grammar, history of the United States, civil government, South Dakota history, didactics and drawing: Provided, that a diploma from any state normal school or any school having a normal department approved by the Superintendent of Public Instruction, and a course of study in which at least two years work beyond the approved eighth grade course in the public schools of South Dakota is required, and which shall include professional instruction and practice in teaching equal to one hour a week for two years, may be accepted by the Superintendent of Public Instruction in lieu of an examination for a second grade certificate; provided further, that from and after the first day of September, 1920, every applicant for a second grade certificate, by examination or otherwise, must present evidence of having attended an approved normal school, or some other school having a normal department approved by the Superintendent of Public Instruction six weeks in the aggregate; except that satisfactory evidence of two years successful experience as a teacher may be accepted by the Superintendent of Public Instruction in lieu of such attendance at such approved schools.

Provided, that a diploma from an accredited four year high school maintaining a normal department approved by the Superintendent of Public Instruction and a course of study in which shall include professional

instruction in pedagogy, including methods, principles of education, and school management and practice in teaching, may be accepted in lieu of an examination for a second grade certificate.

§ 8. **Third Grade Certificates.** A third grade certificate valid for not to exceed one year, in grades below the high school only, in the county where issued and in such district as the county superintendent shall designate upon its face, and signed by the Superintendent of Public Instruction and county superintendent, may be issued in the discretion of the Superintendent of Public Instruction to those candidates who have failed in their examination to measure up to the requirements of the department for the second grade certificate. No teacher shall be entitled to receive more than two third grade certificates: Provided, that from and after the first day of September, 1920, every applicant for a third grade certificate, by examination or otherwise, must present evidence of having attended an approved normal school or some other school having a normal department, approved by the Superintendent of Public Instruction, six weeks in the aggregate; except, that satisfactory evidence of two years successful experience as a teacher may be accepted by the Superintendent of Public Instruction in lieu of attendance at such approved school.

§ 9. **Primary Certificates.** A primary Teacher's Certificate shall authorize the holder thereof to teach in kindergarten and first and second grades only in cities and towns, and shall be issued on examination in the following branches: Reading, writing, orthography, arithmetic, physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, geography, English grammar, history of the United States, South Dakota history, drawing, didactics, and in questions in kindergarten and primary methods. The primary teacher's certificate shall be valid for not to exceed five years in the county where issued and may be made valid in other counties by the indorsement of the county superintendent. Provided, that from and after the first day of September, 1920, every applicant, for a primary certificate, by examination or otherwise, must present evidence of having attended an approved normal school eighteen weeks in the aggregate; except, that satisfactory evidence of five years successful experience as a teacher, or having been engaged in other educational work an equal period of time, may be accepted by the Superintendent of Public Instruction in lieu of such attendance at an approved normal school.

§ 10. **Required Course of Study.** The course of study pursued by every applicant for a first, second, third or primary grade certificate shall include all the branches of study required in the examination for such certificates.

§ 11. **Contents of Certificates.** Each first, second, third, and primary grade certificate shall certify the scholastic and professional attainments, skill in teaching and moral character of the person to whom it is issued. Written answers for the scholastic examination shall be read and marked under the direction of the Superintendent of Public Instruction; the marking for the professional requirements shall be given by the county superintendent, who shall also be the judge of skill in teaching and moral character.

§ 12. **Regulations for Holding Examination.** The regulations for holding examinations by the county superintendent in each county, and the required standards upon which the various certificates shall be issued, shall be prescribed by the Superintendent of Public Instruction: Provided, that no person shall be entitled to a certificate of any grade who has not attained to the age of eighteen years and who does not present evidence of good moral character.

§ 13. **Time of Examination.** The time for regular examinations shall be uniform throughout the state and the examinations shall be

conducted by the county superintendent in each county, or by persons appointed by him, strictly according to regulations prescribed by the Superintendent of Public Instruction. An affidavit may be required of such examiner, certifying that the regulations regarding such examinations have been fully observed. Such public notice shall be given of the time, place and regulations governing the examination as the Superintendent of Public Instruction may determine. The local expense for the examinations herein provided for in each county shall be paid by the county in which such examinations are held. The necessary expenses incurred by the Superintendent of Public Instruction in carrying out the provisions of this chapter shall be paid from the appropriation made for the maintenance of the Department of Public Instruction.

§ 14. Teacher Receive Pay During Examination. The regular examinations shall be public and the teachers desiring to take the same may dismiss their schools for that purpose for a period not exceeding three days in each year, without loss of pay.

§ 15. Teaching Without Certificate Prohibited. Except in independent districts having more than ten thousand population, no person shall be allowed to teach in any of the public schools of this state nor draw wages as a public school teacher who is not the holder of a valid teacher's certificate issued pursuant to the provisions of this article.

§ 16. Renewal and Validation of Certificates. The Superintendent of Public Instruction may renew a Vocational Certificate, A State Certificate, A First Grade Certificate and a Primary Certificate upon the presentation by the applicant of satisfactory evidence of continued and successful experience as a teacher and satisfactory evidence of continued professional interest during the life of the Certificate.

Provided, that a certificate which is permitted to lapse for more than one year shall be renewed only when the holder has complied with such requirements as shall be prescribed by the Superintendent of Public Instruction for the re-instatement of such certificate.

Provided further, that a certificate shall cease to be in force when the holder has ceased to teach for three or more consecutive years, but that this provision shall not apply to Life Professional Diplomas and Life Diplomas when the holder has pursued the regular course of Reading Circle work or such other work as may be prescribed by the Superintendent of Public Instruction.

The Superintendent of Public Instruction may validate certificates issued by other state departments of the United States of the rank of the Life Professional Diploma, Life Diploma, State Certificate, Vocational Certificate, First Grade, Second Grade or Primary Certificate in this state, provided that the requirements upon which they are issued are equivalent to the requirements for corresponding certificates in South Dakota.

§ 17. Revocation of Certificates. The Superintendent of Public Instruction shall have power to revoke any certificate of any grade for any cause which would have prevented its issue, for incompetency, immorality, intemperance, violation of the state law, cruelty, general neglect of the business of the school, willful violation of contract or for conduct unbecoming a teacher.

§ 18. Fees. An applicant for a Life Professional Diploma, or a Life Diploma shall pay a fee of ten dollars (\$10.00) and similarly, an applicant for a State Certificate or a Vocational Certificate shall pay a fee of five dollars (\$5.00), and for a Provisional Life Professional Diploma, or Provisional State Certificate shall pay a fee of two dollars, (\$2.00).

The fee for the renewal or validation of a Certificate shall be the same as for the issuance thereof.

All fees received by the Superintendent of Public Instruction shall be by him covered into the state treasury and credited to a fund to be designated as "The State Institute Fund." The moneys in the State Insti-

tute Fund shall not revert into the state treasury, but shall accumulate from year to year, and shall be used for the purpose of assisting County Superintendent of schools in conducting annual normal institutes and to employ competent lecturers and speakers for educational meetings and conferences called by the Superintendent of Public Instruction for the promotion of education within the state; and the state institute fund is hereby appropriated for that purpose and, shall be paid out upon warrants drawn by the State Auditor on duly itemized vouchers approved by the Superintendent of Public Instruction.

§ 19. Fees for Other Certificates. Applicants for First, Second, or Third Grade Certificates, and for Primary Teacher's Certificates, shall pay a fee of one dollar. All such fees shall be collected by the county superintendent and deposited with the county treasurer to the credit of the Institute Fund of the county.

§ 20. Examination Questions Disclosed, Misdemeanor. Whoever shall sell, barter or give away to applicants for certificates or to any other person the questions prepared by the Superintendent of Public Instruction, to be used by the county superintendents in examination of teachers, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

§ 21. The provisions of this Act shall not affect the rights of persons now holding certificates or who may acquire certificates before this law becomes effective, but such persons shall be entitled to receive from the Superintendent of Public Instruction certificates of the grade and standing which would be awarded were this law not enacted.

§ 22. Subdivision 12 of Section 7386 as well as Subdivisions 2, 3, 4, 5, and 6 of Section 7387, and Sections 7389, 7390, 7391, 7392, 7393, 7394, 7395, 7396, 7397, 7398, 7399, 7400, 7401, 7402, 7403, 7404, 7405 of the South Dakota Revised Code of 1919 be and the same are hereby repealed.

Approved February 27, 1919.

Source: Ch. 181, S. L. 1919.

ARTICLE 3.
STATE BOARD OF EDUCATION

§ 7406. Accepting Federal Benefits.	gents with Federal Board.
§ 7407. Board, Membership, Terms.	§ 7410. State Treasurer Custodian of
§ 7408. Meetings of Board, Expenses.	Funds.
§ 7409. Powers, Cooperation of Re-	

§ 7406. Accepting Federal Benefits. The state of South Dakota having heretofore accepted the benefits of the act of Congress entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers for vocational subjects; and to appropriate money and regulate its expenditure," it will observe and comply with all the requirements of said act.

Source: § 1, Ch. 227, 1917.

§ 7407. Board, Membership, Terms. To this end the state board of education, heretofore created, shall continue to consist of the superintendent of public instruction, the president of the university of South Dakota, the president of the state college of agriculture and mechanic arts, and four persons appointed by the governor, two of whom shall be members of the faculty of a state normal school, one a superintendent or

principal of an independent school district, and one a county superintendent. The appointed members of the board shall hold their office for four years from the date of appointment and shall serve until their successors are appointed and qualified. All vacancies as to appointed members shall be filled by appointment by the governor.

Source: § 2, Ch. 227, 1917.

§ 7408. Officers, Meetings of the Board and Expenses. 1. The Superintendent of Public Instruction shall be ex officio president and executive officer of the Board, and shall furnish all necessary record books and blanks for its use. The deputy superintendent of public instruction shall be ex officio secretary of the Board, but shall not be entitled to a vote in its proceedings.

2. The State Board of Education shall hold quarterly sessions at the Capitol or such other place as may be designated by the president of the Board, who shall also designate the exact date of such meeting. He may also call such special meetings as may be deemed necessary.

3. The members of the State Board of Education shall receive no salary for their services, but they shall be reimbursed for the actual expenses incurred in the performance of their duties, which expenses shall be paid by the State Treasury on warrants of the State Auditor out of the fund hereinafter appropriated for such purpose upon the certificate of the president of the Board.

Source: Chap. 184, S. L. 1919.

§ 7409. Powers and Duties. 1. The state board of education shall have all necessary power to cooperate with the federal board of vocational education in the administration of said federal act. It shall be the duty of the board of regents to designate one or more of the institutions of higher education under its control, in which shall be maintained classes for preparing teachers, supervisors and directors of agricultural subjects, teachers of trade, industrial and home economic subjects; to apportion the federal aid for preparing such persons to the institution or institutions so designated; and to apportion from the funds appropriated for the maintenance of such institution or institutions a sum equal to such federal aid, such funds so apportioned to be used exclusively in the preparation of such teachers, supervisors and instructors as herein provided; and in other ways to cooperate with the state board in carrying out the provisions of this article.

2. The State Board of Education may approve upon the recommendations of the president of the board, high schools which shall maintain departments for the teaching of vocational agriculture, home economics, and trades and industries. Provided that the State Board of Education shall out of the moneys hereinafter appropriated reimburse from federal and state funds such schools as may be approved by the State Board of Education for the maintenance as departments in high schools for the teaching of vocational agriculture and home economics. Provided, further, that the State Board of Education shall reimburse from said funds available such high schools as may maintain departments for the teaching of trades and industries under the regulations prescribed by the State Board, and the Federal Board for vocational education.

3. The aid so disbursed to the different schools of the state shall be divided equally among the schools approved by the board and shall not exceed the cost of maintenance of such department and shall in no way be used to defray the expenses of installation of permanent equipment.

4. The State Board of Education shall have authority to appoint upon the recommendation of the Superintendent of Public Instruction such officers and assistants as he may deem necessary to properly administer the federal act and this act of the State of South Dakota and to fix the compensation of such officers and assistants and to pay such com-

pensation and necessary expenses of such officials and assistants from the funds hereinafter appropriated for that purpose.

Source: Chap. 184, S. L. 1919.

§ 7410. Appropriation, Custodian of Funds. 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of twenty-thousand six hundred (20,600) dollars annually to carry out the provisions of this act, and to enable the State of South Dakota to take complete advantage of the federal funds available for vocational education. The aforesaid sum shall be apportioned in the following manner: For expenses of members of the State Board of Education, not to exceed six-hundred (600) dollars annually; for administration and supervision of this act, not to exceed three thousand four hundred (3,400) dollars annually; for aid in teaching vocational agriculture eight thousand six hundred (8,600) dollars annually; for aid in teaching vocational home economics eight thousand (8,000) dollars annually.

Source: Chap. 184, S. L. 1919.

2. The State Treasurer shall be custodian of all moneys paid to the state from federal appropriations for the promotion of vocational education, and shall disburse the same upon warrants from the State Auditor issued upon the certificate of the Superintendent of Public Instruction. The State Board of Education shall, on or before the last Tuesday in July authorize the Superintendent of Public Instruction to certify to the State Auditor the amount apportioned as state and federal aid to each school approved under the provisions of this act. The State Auditor shall upon the receipt of such certificate draw warrants on the state treasury in favor of the secretary of the board of education or clerk of the school district for the sum so specified for the different school districts of the state approved by the State Board of Education.

Source: Chap. 184, S. L. 1919.

ARTICLE 4. READING CIRCLE BOARD

§ 7411. Managers.

§ 7412. Membership, Secretary, Fees, Duties.

§ 7411. Managers. The teachers' reading circle board of managers shall consist of the president of the state educational association, the superintendent of public instruction and a member selected by the county superintendents of the state.

Source: § 17, Ch. 135, 1907.

§ 7412. Membership, Secretary, Fees, Duties. The president of the state educational association shall be the president of the board and the members of the board shall elect a secretary who shall not be of their number and who shall have no voice in the proceedings of the board. The secretary shall receive such salary as may be fixed by the board who shall also prescribe his duties. The board of managers of the teachers' reading circle shall hold at least one meeting each year to select the books to be read, and shall have general charge of the teachers' reading circle work in the state. The members of the board of managers shall receive no compensation, but their actual traveling expenses incurred in the discharge of their duties shall be paid from the fees collected for state certificates and life diplomas.

Source: § 17, Ch. 135, 1907.

CHAPTER 2.
COUNTY SUPERVISION

- Article 1. County Superintendent.
 - Article 2. Normal Institutes.
 - Article 3. School Apportionment.
 - Article 4. County Contests.
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ARTICLE 1.
COUNTY SUPERINTENDENT

§	7413. Election, Term.	§	7420. Deputy or Clerk.
	7414. Eligibility.		7421. Office Provided.
	7415. Eligibility Challenged.		7422. School Visits, Sign Register, Penalty.
	7416. Oath and Bond.		7423. Supervision, General and Direct.
	7417. Vacancy.		7424. Duties.
	7418. Holding Other Offices Pro- hibited.		7425. Powers.
§	7419. Mileage and Expenses.		

§ 7413. **Election, Term.** In each organized county at each general election there shall be elected a superintendent of schools, whose term of office shall be two years, beginning on the first Monday of the succeeding June, and who shall qualify on or before that day.

Source: § 21, Ch. 135, 1907; §§ 1, 2, Ch. 210, 1917.

§ 7414. **Eligibility.** No person shall be eligible to hold the office of county superintendent of schools who, if not the holder of a State Certificate or Certificate of higher grade, valid in this state at the date of his induction into office and for a period of at least one year previous thereto, and who has not at least two years experience in teaching.

Provided, that the provisions of this act shall in no wise affect the rights of any person holding the office of county superintendent of schools at the time this act becomes effective.

Source: Ch. 172, S. L. 1919

§ 7415. **Eligibility Challenged.** If any person shall file a statement on oath, with the county auditor, fifteen days prior to the holding of any primary election or other election, that any person whose name has been certified to the county auditor as a candidate for county superintendent upon any ticket is not qualified under the provisions of this article to hold such office, such candidate shall within five days after being notified of the filing of such statement file with the county auditor full proof that he is qualified to hold such office, and if he fails to do so, his name shall not be placed upon the official ballot as a candidate by the county auditor.

Source: § 2, Ch. 90, 1909.
Eligibility, how questioned; necessity of filing statement with county auditor. State ex rel. Ochsenreiter v. Blegen, 26 S. D. 106, 128 N. W. 488.

§ 7416. **Oath and Bond.** The county superintendent shall qualify by taking the proper oath of office and executing a bond in the sum of five hundred dollars, with two or more sureties, to be approved, recorded and filed according to the provisions of this code relating to official bonds of county officers.

Source: § 23, Ch. 135, 1907; § 2, Ch. 1917.

§ 7417. **Vacancy.** When the office of county superintendent shall become vacant by death, resignation, removal or otherwise, the board of

county commissioners shall fill the vacancy by appointment, and the person so appointed shall hold his office until a successor can be elected and has qualified.

Source: § 24, Ch. 135, 1907

§ 7418. Holding Other Offices Prohibited. The county superintendent shall not hold the office of county commissioner or any school district office.

Source: § 26, Ch. 135, 1907.

§ 7419. Mileage and Expenses. In addition to the salary otherwise provided by law the county superintendent shall receive five (5) cents per mile each way for every mile necessarily traveled in attending such meetings of county superintendents as may be convened by the Superintendent of Public Instruction, and he shall be reimbursed by the county for the necessary traveling expenses incurred in visiting schools in attending teachers' and officers' meetings within the county. He shall furnish quarterly, to the county commissioners, an itemized statement of such mileage and expenses, subscribed and sworn to, which claims shall be audited and ordered paid by the Board of County Commissioners as are other claims against the county. The total of such sums so allowed for mileage and expenses in any one year shall not exceed four hundred dollars (\$400.00) in counties having less than one hundred (100) schools, and in counties having more than one hundred (100) schools the amount shall not exceed eight hundred dollars (\$800.00)

Source: Chap. 172, S. L. 1919.

§ 5818. The population of the counties of this state as the basis of salaries of county officers shall be determined by the last state or federal census. In all counties created or organized since the last state or federal census has been taken, the county commissioners shall provide for the taking of the census of such county as soon as the creation or organization of such county is completed, and the expense thereof shall be paid by the county. The compensation of the persons authorized by the board of county commissioners to take such census shall be fixed by the board and the census so taken shall govern as a basis for the salaries of the officers of such county until the next state or federal census is taken.

§ 2. That Section 5819 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

Section 5819. The annual salaries of the County Auditors, the County Treasurer, the Clerk of Courts, the Superintendents of Schools and the Register of Deeds of the several counties of this state shall be regulated and fixed by the population of the several counties as shown by the last state or federal census.

Provided that the salaries hereinbefore provided shall be full compensation for all services rendered by such county officials under any and all laws of this state and that all fees and per diem collected under the laws of this state by any such county officials shall be paid by such county officials to the county treasurer of their respective counties.

§ 3. Section 5820 of the South Dakota Revised Code of 1919 is hereby amended to read as follows:

§ 5820. Salaries—How Computed. The county treasurer and the county auditor shall receive the following salaries:

Upon the first one thousand of population, one thousand dollars.

Upon the second thousand of population or major fraction thereof, two hundred fifty dollars.

Upon the third one thousand of population or major fraction thereof, the sum of two hundred dollars.

Thereafter upon each additional one thousand of population or major fraction thereof, the sum of fifty dollars up to ten thousand of population.

Thereafter upon each additional thousand of population the sum of thirty-five dollars.

Provided that in no county shall the salary of the County Treasurer and County Auditor exceed twenty-five hundred dollars.

The county treasurer and auditor shall in no case receive a salary of less than fourteen hundred dollars in counties having a population of two thousand or more and they shall not receive a salary of less than sixteen hundred dollars in counties having a population of five thousand or more.

The County clerk of courts, register of deeds and superintendent of schools shall receive the following salaries:

Upon the first one thousand of population, one thousand dollars.

Upon the second one thousand of population or major fraction thereof, two hundred dollars.

Upon the third one thousand of population or major fraction thereof, one hundred dollars.

Thereafter upon each additional one thousand of population or major fraction thereof, the sum of fifty dollars, up to ten thousand population.

Thereafter upon each additional one thousand of population or major fraction thereof, the sum of thirty-five dollars.

Provided, that in no county having a population of less than twenty-five thousand shall the clerk of courts, register of deeds or superintendent of schools receive a salary of more than twenty-two hundred dollars, and in no county having a population of more than twenty-five thousand shall the superintendent of schools and register of deed receive a salary of more than twenty-four hundred dollars and the clerk of courts a salary of more than twenty-five hundred dollars. Provided that in counties having an area of seventy-five or more congressional townships or major fractional parts of townships, the salary of the county superintendent of schools shall be not less than Eighteen Hundred Dollars per annum.

In no county shall the salary of any officer mentioned in this section be reduced by the provisions hereof during his present term of office.

Source: Chap. 148, S. L. 1917.

§ 7420. In a county having (50) or more schools under the direct supervision of the county superintendent, the superintendent shall be entitled to, and may appoint a deputy for whose acts as such he shall be responsible. Such deputy may or may not possess the qualifications required by law for the county superintendent, but he must be at least fitted to do office work, and must hold a valid teachers certificate.

In counties having one hundred (100) or more schools, the county superintendent shall be entitled to, and may appoint a deputy having the qualifications of the county superintendent, for whose acts as such he shall be responsible, and he may by the consent and with the approval of the board of county commissioners, appoint an additional deputy of lesser qualifications, for the year or such portion thereof as may be necessary.

Whenever deputy is employed who shall be qualified as is the county superintendent, he shall assist in the office, in visiting schools, and in the general supervision of the educational work of the county, and shall receive a salary fixed by the board of county commissioners, but not less than one thousand (1000) dollars per year. When his qualifications are less than those required by law for the county superintendent, his salary shall be fixed by said board, but shall not be less than fifty (50) per cent of that of the county superintendent.

Each deputy shall take and subscribe the same oath as his principal, naming his deputyship, which shall be indorsed and filed with his certificate of appointment.

Source: Ch. 172, S. L. 1919.

§ 7421. Office Provided. The county superintendent may provide at the county seat a suitable office for the transaction of business, when not provided by the board of county commissioners, and such board shall allow accounts for all necessary expenditures for the use and furnishing of such office and for necessary stationery and printing. All books and pamphlets, circulars of information and other publications from the bureau of information of the United States, and all official publications of this state and other public documents and books relating to education, officially received by the superintendent, shall be deemed public property and shall be kept in his office, and, with other public property and records, delivered to his successor. He shall furnish the board of county commissioners such statistics relating to the schools of the county and the officers thereof as it shall desire, and as will enable it to perform its duties correctly.

Source: § 30, Ch. 135, 1907.

§ 7422. School Visits, Sign Register, Penalty. The county superintendent shall sign his name in the attendance register of each school he visits, showing the date thereof; and he shall carry a record book of such visits, which book shall be signed by the teacher of the school visited by him, and filed with the county auditor with the bill of such superintendent's salary for the last month of the calendar year; and it shall be the duty of the county commissioners to deduct from the salary of such superintendent for such last month ten dollars for each and every school in the county, under the direct supervision of such superintendent, not visited by him within such calendar year.

Source: § 28, Ch. 135, 1907.

§ 7423. Supervision, General and Direct. The county superintendent shall have general supervision of all the public schools in the county and direct supervision of all public schools in the county except those in independent districts containing a city.

Source: § 31, Ch. 135, 1907.

§ 7424. Duties. It shall be the duty of the county superintendent of schools:

1. To visit each common school in his county as often as possible and at least once each school year, correcting any deficiency in the government of the school, classification of pupils or methods of instruction, and making suggestions as to the welfare of the school and to the district officers in reference to their duties regarding the school house, furniture, apparatus and grounds.

2. To keep a complete record of his official acts.

3. To keep a record of the name, age and postoffice address of each applicant for a certificate to teach, such applicant's standing in each study and the grade, date of issue, and expiration of each certificate granted, and keep on file the papers of applicants for special certificates during the period for which such certificate is granted.

4. To keep a register of teachers employed in his county, giving the name of the teacher, district in which employed, salary per month, grade of certificate, date of opening and closing the terms and of the superintendent's visits.

5. To keep a record of all apportionments of state and county school funds and such other statistical records as shall be required in making reports to the superintendent of public instruction, and, whenever called upon by the superintendent of public instruction, make in addition to his annual report such special reports as may be required.

6. To keep in a proper book, provided for that purpose by the county, a correct record of all proceedings of the board of county commissioners relating to the establishment, division, consolidation and change of

boundaries of school districts, and promptly transmit to the superintendent of public instruction a correct plat showing any changes in the boundaries of any school corporation, in accordance with the instructions of the superintendent of public instruction.

7. To encourage teachers institutes and associations, and labor in every practicable way to elevate the standard of teaching, urge the continued employment of successful and efficient teachers and prevent by all proper means the employment of those who are incompetent and inefficient, and seek to make the employment of all teachers a responsible public duty for the public advantage only, and free from favor and sectarian interests.

8. To actively and earnestly promote and hold district institutes during the school year, and in holding such institutes he may group two or more districts into institute organizations, so arranging the districts that the teachers in each district or group of districts shall have the benefit of such institutes at least twice during the school year.

9. To cooperate with the board of managers of the state teachers' reading circle in advancing the work of that organization in his county and to report on or before the fifteenth day of December of each year, to the secretary of such reading circle, the enrollment of all persons in his county known to him to be pursuing the work of such circle, plans by which the work thereof is being carried on and all matters of general interest thereto.

10. To arrange for an annual examination in the state teachers' reading circle course of his county under the direction of the superintendent of public instruction, and to provide or appoint some competent person to preside at the same, to collect all examination papers submitted at such examination and promptly forward the same to the secretary of the board of managers.

11. To hold annually a normal institute of not less than two (2) or more than three (3) days duration for the instruction of teachers and those who desire to teach, and he shall procure such instructors in addition to the conductor as shall be necessary. The time at which such institutes shall be held shall be fixed by the county superintendent with the approval of the Superintendent of Public Instruction, Provided that two or more counties may combine to hold joint institutes upon obtaining the approval of the Superintendent of Public Instruction.

Source: Ch. 175, S. L. 1919.

12. To require the district school officers of his county to assemble at one or more convenient locations in his county in each year for discussing questions intended to promote the school interests of the county, and in his discretion he may close all the schools of his county and require the attendance of the teachers at such meetings upon giving interested persons ten days notice, with like notice to the superintendent of public instruction. For attending such meetings school officers shall receive a per diem of one dollar and fifty cents, and five cents for each mile necessarily traveled in attending the meeting, to be paid from the district treasury, and teachers required to attend such meeting shall sustain no loss of pay.

13. To notify the various district school officers of a time and place at which he will meet with them at least once in each year and personally or through his deputy determine the accuracy of the school officers' records and advise them of the proper form of keeping their accounts, to which meeting it shall be the duty of the school officers to bring or send the records of their respective offices for examination and, in case any officer shall fail to make report according to law and at the time required, the county superintendent is authorized to secure the same by examination of the records, files and accounts of such officer and to file with the chairman of the district board a certified statement of the condition of the records, accounts and funds of the treasurer and clerk.

14. To at all times conform to the instructions of the superintendent of public instruction as to matters within the jurisdiction of the latter and serve as a medium of communication between the superintendent of public instruction and the district school officers.

15. To report under oath to the commissioner of school and public lands, on or before the first day of July in each year, the enumeration of persons of school age in each school district in his county, according to the census of the school districts as hereinafter provided, which enumeration shall also be used by the county superintendent as a basis for apportioning the county general school fund

16. To apportion, on the tenth day of January and July in each year the money in the county treasury belonging to the county general school fund among the several school corporations within the county in proportion to the number of children of school age residing therein, and to draw orders on the county treasurer in favor of the several school treasurers of the county for the amount apportioned to them, taking their receipts therefor.

17. To make a report to the superintendent of public instruction, on or before the first Monday of September of each year, containing a full abstract of the reports made to him by the district officers and including such other matters therein as shall be directed by the superintendent of public instruction or as he himself may deem essential in exhibiting the true condition of the schools under his charge, and on failure to make such report he shall forfeit to the school fund of his county the sum of one hundred dollars and in addition be liable for all damages caused by such neglect

18. To give advice, when requested, relative to school matters to any school officer or person within the county.

19. To transmit, within ten days after his decision to revoke a certificate, a written statement to the person accused, stating the ground upon which such certificate was revoked, and forward a copy of the same to the superintendent of public instruction, and any aggrieved person desiring to appeal from such decision shall, within ten days after receipt of such notice, serve a written notice of appeal from such decision on the superintendent of public instruction, which notice shall specify the grounds upon which the appeal was taken and the superintendent of public instruction shall provide for a fair review of the decision of the county superintendent upon such repeal.

Source: §§ 32-44, 47, 49, 51, 53, 65, 78, Ch. 135, 1907; § 3, Ch. 140, 1909.

§ 7425. Powers. The county superintendent shall have power:

1. In case of wilful neglect on the part of the school board of any district to make necessary repairs for the school, or to correct unsanitary conditions, or provide water closets according to the provisions therefor hereinafter contained, to make such repairs or provisions unless the school board of such district shall, within thirty days after written notice, make the same, and to pay the expense thereof, not exceeding fifty dollars in any one year, from the district school treasury.

2 The county superintendent shall have power to close all schools in the county except in cities of the first and second class and four (4) year accredited high schools, and require the attendance of all teachers who shall draw pay as for teaching for the time spent in attendance in the county normal institute.

Source: Ch. 175, S. L. 1919.

3 To administer oaths of office to all subordinate school officers in his county and to certify to the same.

4. To close any school under his direct supervision on account of contagious disease or for any other cause he may deem sufficient.

5. To issue a certificate on his own examination of the first, second or third grade to applicants who present satisfactory proof that they were unable to be present at the regular public examination, which certificate shall be termed a special certificate and shall be valid only in grades below the high school in a district specified on its face and until the next succeeding regular examination.

6. To revoke at any time first, second or third grade certificates and primary teachers' certificate for any cause which would have prevented the issuance of the same and for incompetency, immorality, intemperance, violation of state law, cruelty, general neglect of the business of the school, and refusal or neglect to attend regularly a county institute and at least one district institute each year, after notice, unless excused

Source: §§ 32, 38, 45, 46, 64, Chap. 135, 1907.

ARTICLE 2. NORMAL INSTITUTES

§ 7426. Conductor Certify.	§ 7430. Share Determined.
§ 7427. County Commissioners Appropriate Money.	§ 7431. Summer Schools.
§ 7428. Joint Institute, Bills Audited.	§ 7432. Persons Excused from Attending.
§ 7429. Expenses Shared.	

§ 7426. At the close of any normal institute the county superintendent shall immediately certify to the county auditor the dates of opening and closing of such institute, and forward to him a certified copy of the conductor's commission. The county auditor shall immediately present such certificates to the county treasurer who shall thereupon transfer from the county general fund to the county institute fund the equivalent of ten (10) cents per capita upon the school census in the county for the current year, provided, that if the per capita amount so ascertained shall be less than one hundred fifty (150) dollars in any county, then at least the sum of one hundred fifty (150) dollars shall be transferred by the board of county commissioners to the county institute fund.

Source: Chap. 175, S. L. 1919,

§ 7427. The county commissioners may make additional appropriations to the county institute fund when in their judgment it is necessary in order to provide an effective institute. All disbursement of the institute fund shall be made upon warrants of the county auditor upon certified itemized bills approved by the county superintendent for services rendered or expenses incurred in connection with the institute.

Source: Ch. 175, S. L. 1919.

§ 7428. In a county where a joint institute is held, it shall be the duty of the county auditor to audit all bills against the institute fund and all disbursements shall be made by the county auditor of such county upon certified itemized bills approved by a majority of the county superintendents holding such joint institute. Provided that the records of such joint institute shall be made a permanent part of the records of the office of the county superintendent in the county in which such joint institute is held.

Source: Ch. 175, S. L. 1919.

§ 7429. Expense Shared. Counties holding a joint institute shall share the expense of such institute in such proportion as the number of children enumerated in the school census of each county bears to the

total number of children enumerated in the counties so combined in the institute.

Source: § 41, Ch. 135, 1907.

§ 7430. Share Determined. The county superintendents of the counties combined for institute purposes shall determine each county's share of the expense of the institute as above provided and shall send a certified statement of the same, signed by a majority of the county superintendents to the auditor of each county so combined, whereupon each county auditor so notified shall issue a warrant on the institute fund in favor of the county treasurer of the county in which the institute was held for his county's share of such expense and such county treasurer shall place it to the credit of the institute fund of his county.

Source: § 41, Ch. 135, 1907.

§ 7431. Summer Schools. The Superintendent of Public Instruction may approve summer schools conducted by normal schools and colleges of this state for attendance of teachers; provided, that when the county superintendents of two or more counties deem it to be for the best interests of the teachers and the schools of their respective counties, they may hold a joint summer school of at least six weeks duration, in which the regular normal work shall be given, and all summer schools as defined in this section shall be considered normal schools for accreditation toward teachers' certificates. The course of study and corps of instructors and lecturers shall be subject to the approval of the Superintendent of Public Instruction and the expense of such summer school shall be apportioned among the several counties participating, on the basis of the number of children of school age in each county, and shall be paid from the county institute and professional fund in the same manner as hereinbefore provided for joint institutes. A reasonable tuition charge in such summer schools may be made.

Provided that the records of such joint summer school including the credits earned by students in attendance thereat, shall be made a permanent record in the office of the county superintendent in which such joint summer school is held, and a certified copy of the same filed in the office of each county superintendent participating in such joint summer school. No county superintendent shall agree to take part in any such summer school without first securing the formal consent of the board of county commissioners of his county; provided further, that the county commissioners may in their judgment make such an appropriation for the maintenance of such summer school as they may deem necessary.

Provided further, that in counties holding a joint summer school a sufficient portion of the county institute fund shall be set aside for the maintenance of the county normal institute in each county as heretofore provided.

Source: Ch. 175, S. L. 1919.

§ 7432. Persons Excused From Attending. Any holder of a first or higher grade certificate, in force, who has regularly attended at least four normal institutes may be excused by the county superintendent or superintendent of public instruction from attendance at the county institute for the current year.

Source: § 64, Ch. 135, 1907.

ARTICLE 3.
SCHOOL APPORTIONMENT

§ 7433. County Treasury, Duty. § 7434. County General School Fund.

§ 7433. **County Treasurer, Duty.** The county treasurer shall on or before the fifth day of January and July furnish the county superintendent with a statement of all money in the county treasury belonging to the county general school fund, and shall pay the same, upon the order of the superintendent, to the treasurers of the respective public school corporation of the county. The county treasurer shall also pay at such times as are required by law, to the treasurer of each school corporation, all of the school money collected for such corporation, and shall take duplicate receipts for the money paid. He shall send one of the receipts to the clerk of such school corporation.

Source: § 48, Ch. 135, 1907.

§ 7434. **County General School Fund.** The county general school fund to be thus apportioned shall consist of the money received from the income of the permanent school fund of the state, as apportioned to the several counties by the commissioner of school and public lands, the money derived from the tax levy of one dollar on each elector in the county, and the net proceeds of all fines for violation of state laws.

Source: § 50, Ch. 135, 1907.

ARTICLE 4.
COUNTY CONTESTS

§ 7435. Power Given to County Superintendent. § 7438. Limitation of Expenditures.
§ 7436. Annual Exhibit and Program. § 7439. County Superintendent to
§ 7437. Authority to Appropriate Report to County Auditor.
Given to County Commissioners.

§ 7435. **Power Given to County Superintendent.** The county superintendent is authorized to conduct a contest in agriculture, in the industrial arts or in home economics, among the pupils enrolled in the public schools under his direct supervision.

Source: § 1, Ch. 188, 1913.

§ 7436. **Annual Exhibit and Program.** Whenever a county superintendent shall have instituted any such contest, he shall thereafter, on such date as he may designate, hold an annual exhibit to show the results of the work of the participants. At the annual exhibit an educational program shall be rendered, which shall include instruction upon matters pertaining to the contest.

Source: § 2, Ch. 188, 1913.

§ 7437. **Authority to Appropriate Given to County Commissioners.** The county commissioners of any county wherein the county superintendent has organized a contest among the pupils of the public schools, as provided for in this article, are authorized to appropriate from the county general fund the sum of two hundred dollars, at the first regular meeting of the county commissioners after having been notified by the county superintendent that a contest has been instituted; provided that any part of such appropriation remaining unused on January first next succeeding the appropriation shall revert to the county general fund.

Source: § 3, Ch. 188, 1913.

§ 7438. **Limitation of Expenditures.** The expenditures in connection with a contest shall be limited to the awarding of prizes, the renting of a hall or room for the annual exhibit, the furnishing of material to pupils for carrying on the work of the contest, the employing of lecturers for the program, expert assistants for judging the exhibit, and other necessary incidental expenses, which expenditures, in a sum not exceeding two hundred dollars, shall be paid upon itemized vouchers certified to by the county superintendent.

Source: §§ 4, 5, Ch. 188, 1913

§ 7439. **County Superintendent to Report to County Auditor.** At the close of any contest conducted by the county superintendent in accordance with the provisions of this article, he shall make a written report to the county auditor, which shall show the nature of the contest or contests, the program rendered, the enrollment of pupils, to whom prizes were awarded, and the amount of each prize. He shall also file with the county auditor a certified and itemized statement of the expenses of the contest.

Source: § 6, Ch. 188, 1913.

CHAPTER 3. COMMON SCHOOL CORPORATIONS

- Article 1. School District.
- Article 2. Elections.
- Article 3. Officers.
- Article 4. District Boards, Powers and Duties.
- Article 5. Teachers and Schools.
- Article 6. Unorganized Counties.
- Article 7. Unorganized Territory.

ARTICLE 1. SCHOOL DISTRICTS

- | | |
|----------------------------------------------|-----------------------------------------------|
| § 7440. Definition. | § 7445. One District Formed from Two or More. |
| § 7441. Existing Boundaries to Continue. | § 7446. Division of Districts. |
| § 7442. Division of County Into. | § 7447. Change of Boundaries. |
| § 7443. Distinctive Name Chosen by District. | § 7448. School District a Corporation. |
| § 7444. Name Given by Statute | § 7449. School Officers in New Districts. |

§ 7440. **Definition.** Any territory heretofore or hereafter organized for school purposes, not included in any independent district, is defined to be a common school district, and shall be governed by the provisions of this chapter except when a contrary intention plainly appears. The word "district," when used without qualifications, shall be understood as meaning a common school district, except where a contrary intention plainly appears.

§ 7441. **Existing Boundaries to Continue.** The boundaries of all common school districts shall continue as established when this code takes effect, until changed in some manner authorized by law.

Source: § 67, Ch. 135, 1907.

§ 7442. **Division of County into.** It shall be the duty of the board of county commissioners to divide the settled portions of the county not organized as school corporations into school districts, conforming the

boundaries to the boundaries of congressional townships, including one or more such townships in each district, as it may deem for the best interests of the schools, but forming no district which at the time of formation has less than ten children of legal school age.

Source: § 68, Ch. 135, 1907. Koontz v. Brown, 15 S. D. 74, 125 N. W. 294.
Relates only to creation of new districts, not to division. State ex rel.

§ 7443. **Distinctive Name Chosen by District.** Each common school district in this state may choose a name and record the same in a book to be kept for the purpose in the office of the county superintendent of schools; provided that such county superintendent shall refuse to record, as the name of any district, a name which has been previously chosen and recorded by another district in the same county.

Source: Chap. 142, 1911.

§ 7444. **Name Given by Statute.** Every common school district not having chosen a distinctive name, which consists of a civil township, shall be named the school district of county, state of South Dakota, with the name of the civil township inserted in the blank before the word "school," and the name of the county in which it is situated inserted before the word "county." Every school district which has been named by a distinctive name shall have such distinctive name inserted in the blank before the word "school." Every school district consisting of territory not organized into a civil township and which has no distinctive name shall be called district No of county, with its proper number inserted in the blank after the word "No.," and the proper name of the county inserted.

Source: § 72, Ch. 135, 1907.

§ 7445. **One District Formed from Two or More.** Upon the receipt of a petition signed by a majority of the qualified electors of any civil township having two or more districts, the county commissioners and the county superintendent shall declare that the school districts therein shall comprise only one district; and the county superintendent shall appoint temporary officers for such school district, who shall serve until the first annual school election and until their successors are elected and qualified.

Source: § 70, Ch. 135, 1907. No authority to create a new district by division of an existing district or change of boundary lines, the foregoing section only authorizing readjustments of boundaries of existing districts. State ex rel Coatsworth v. Olson, 30 S. D. 573, 139 N. W. 336. Includes power to consolidate. Stephens et al. v. Jones et al., 24 S. D. 97, 123 N. W. 705.

§ 7446. **Division of Districts.** Any common school district may be divided in the following manner: Plats shall be prepared showing the several districts into which it is proposed to divide such district. A petition shall then be circulated and signed by a majority of the electors of each proposed district, to which petition shall be attached the plat of the new districts to which such petition refers, in which petition it shall be stated that a division of the school district is desired in accordance with the attached plat. Each person signing such petition must add to his signature his place of residence by a legal description, his postoffice address and the date of signing. Such petition, having been circulated and signed, shall have attached thereto the affidavit of the person circulating the same, stating that the petition was signed in his presence by the persons whose names appear thereon at the times stated in such petition, and the petition so circulated and signed shall be filed in the office of the county superintendent of schools. If the petition filed as aforesaid contains the names of a majority of the electors of each of the proposed districts to which such petition refers, the county superintendent of schools, with the board of county commissioners, at the next regular April meeting of such

board, shall proceed to divide such district in accordance with such petition and plat, if in their judgment such division ought to be made, and the county superintendent shall appoint temporary officers for each new district, who shall serve until the first annual school election and until their successors are elected and qualified. At the regular meeting of the board of county commissioners in July following such division the board and the county superintendent shall make an equitable apportionment of the property and indebtedness, other than bonded, of the district among the new districts formed therefrom; provided that should there be any bonded indebtedness outstanding against the district, the county commissioners shall levy a tax annually, on the property of the new districts formed therefrom, sufficient to pay the interest and principal of the bonds as the same become due. The county treasurer shall apply such tax to the payment of such bonded indebtedness, and when the bonds are paid and canceled the county treasurer shall place the unused balance of such tax, if any, to the credit of the districts formed therefrom.

Source: § 69, Ch. 135, 1907; Ch. 171, 1915.

As judicial powers are vested in the courts the commission provided for in this section could not exercise those powers. The apportionment of indebtedness is not judicial action but purely administrative and as the legislature could act it can delegate such action. Smithwick School District v. Lincoln School District, 37 S. D. 38,

156 N. W. 587.

Applicable to all districts; board and superintendent act ministerially only. State ex rel. Koontz v. Brown, 25 S. D. 74, 125 N. W. 294.

County Commissioners and superintendent divide on petition signed by majority of electors. State ex rel. Woodcock v. Chitty, 40 S. D. —, 166 N. W. 633.

7446½. Relating to School Districts in More Than One County

§ 1. The procedure for the division or formation of any common school district, when such district or proposed district shall consist of territory in two or more counties, shall be governed as far as practicable by the provisions for the division of districts generally, as prescribed in section 7446 of the Revised Code of 1919, except as hereinafter provided.

§ 2. Upon receipt of a petition for the division or formation of any such school district, the county superintendent of either county shall notify the boards of county commissioners of the said counties and it shall be the duty of said boards of county commissioners to appoint a joint commission to act upon the petition. Said joint commission shall perform all of the duties required of the county superintendent and county commissioners in said section 7446, at the time and in the manner therein provided; Provided, that nothing in this act shall apply to changing the boundaries of any such school districts, when such change affects the territory of one county only.

§ 3. After completion of the proceedings for division or formation of such school districts, the county superintendent of the county in which the school house of said district is located, or if there be more than one school house in said district, then of the county in which the major portion of said district is situated, shall fill all vacancies in the school offices of said district that may occur and shall have jurisdiction over the said schools and the officers and teachers thereof.

Source: Ch. 178, S. L. 1919.

§ 7447. **Change of Boundaries.** The boundaries of school districts may be changed by the board of county commissioners and the county superintendent, at any regular meeting of such board, upon a petition for such change signed by ten legal voters residing in the districts to be affected by the proposed change, due notice having been given by the county auditor to the school boards of the districts to be affected, if in the judgment of the commissioners and the superintendent such change is

for the best interests of the patrons of the school; provided such change shall not operate to increase the number of districts.

Source: § 73, Ch 135, 1907. tricts. Colfix v. Caldwell, 37 S. D. 243, 147 N. W. 661.

§ 7448. **School District a Corporation.** Every common school district shall be and constitute a district corporation for school purposes, and under its own name or number may sue and be sued, contract and be contracted with, purchase, hold and use personal and real property for the purposes mentioned in this chapter and sell and dispose of the same.

Source: § 74, Ch, 135, 1907.

§ 7449. **School Officers in New Districts.** In each new district formed by division or organization the officers thereof shall be chosen at the annual school meeting following and, when a district shall be divided, the clerk of the original school district divided shall on or before the first Tuesday following the division forward to the county auditor a certified statement of the finances of the district, including its bonded and other indebtedness. The treasurer of each original district shall also, within the same time, turn over to the county treasurer all money belonging to such district, and such money shall be apportioned to the districts succeeding as provided in the preceding sections.

Source: § 71, Ch. 135, 1907. divided into several districts. Security State Bank v. Cavour School Dist, 38 S. D. 216, 160 N. W. 850.

ARTICLE 2.
ELECTIONS

- | | |
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| § 7450. Annual Election. | § 7454. Voting, Canvass, Returns. |
| 7451. Notice. | 7455. Tie Vote. |
| 7452. Who May vote. | 7456. Electors May Instruct. |
| 7453. Judge and Clerk, Polls Open | 7457. Special Meetings of Electors. |

§ 7450. **Annual Election.** An annual school district election shall be held upon the third Tuesday of June in each year.

Source: § 79, Ch. 135, 1907.

§ 7451. **Notice.** Not less than ten days before such election the district clerk shall post notices in three public places in the district. Such notices shall specify the time and place of holding the election, and the hours during which the polls will be kept open.

Source: § 81, Ch. 135, 1907.

§ 7452. **Who May Vote.** Any person, qualified under the constitution, resident of the county ninety days and of the district thirty days, shall be entitled to vote at such election; provided, that when the district lies in two or more counties, any such elector shall be entitled to vote at such election if a resident for ninety days of any portion of such district, though not a resident of the county in which such election is held.

Source: § 81, Ch 135, 1907; Ch. 141, 1907.

§ 7453. **Judge and Clerk, Polls Open.** The chairman and clerk of the district board shall serve as judge and clerk of the election. If they are not present at the time of opening the polls, voters present may select a judge and clerk from their number. The polls shall be open at two p. m. and kept open two hours in a district having but one school, and four hours in districts having more than one school.

Source: § 81, Ch. 135, 1907.

§ 7454. **Voting, Canvass, Returns.** The voting must be by ballot,

and the polls and tally list, supplied through the county superintendent, must be kept and returned to the district clerk, who shall upon receipt of the same issue certificates of election to the persons receiving the greatest number of votes as shown by the certified returns.

Source: § 81, Ch. 135, 1907.

§ 7455. **Tie Vote.** In case of a tie in the election of an officer, the contest shall be settled at once by lot by the election board.

Source: § 81, Ch. 135, 1907.

§ 7456. **Electors May Instruct.** At the annual common school district election the electors shall have the authority to instruct the board in matters pertaining to the management of the schools for the coming year. They shall be called to order for this purpose at three o'clock P. M. or as soon thereafter as practicable. The Chairman of the school district board shall act as chairman of the meeting and the Clerk shall keep the minutes of the meeting in the permanent records of the school district. At this meeting the electors may instruct the board pertaining to the branches to be taught, in addition to those hereinafter prescribed; the time at which the schools of the district shall be held; the amount of tax levy; the repair of the school house, fixtures and outbuildings; the erection of a new school house, teacher's home, or such other buildings as they may deem necessary, the purchase of lands, or the sale of any buildings, land, or other property belonging to the district, and upon any other subject pertaining to the schools; and it shall be the duty of the district board to carry into execution as speedily as possible all such instructions that have received a majority vote of the electors of the district present at the meeting; provided that it shall be the duty of the district board to equally furnish, equip and supply all the schools in the district according to the several necessities of such schools, and with as nearly equal school advantages as possible; provided, further, that nothing contained herein shall prevent the district board from exercising a sound discretion as to all matters pertaining to its duties not expressly provided for by law. At this meeting it shall be the duty of the clerk and treasurer to give approximately the facts that will be contained in their respective reports.

Source: Ch. 176, S. L. 1919.

§ 7457. **Special Meetings of Electors.** In any common school district five legal voters may petition the clerk to call a special meeting of the voters at any time, and it shall be the duty of the clerk to call such meeting by posting notices, at least ten days prior to the time of the meeting, in three of the most public places in the district. Such notices shall give the date, hour and object of the meeting.

Source: § 93, Chap. 135, 1907.

ARTICLE 3
OFFICERS

<p>§ 7458. District Board. 7459. Qualify, When, How. 7460. Failure to Qualify. 7461. Bond of Treasurer. 7462. Bond of Clerk. 7463. New or Additional Bond. 7464. Bond and Oath Filed. 7465. Not Act Until Qualified. 7466. Temporary Officers. 7467. Vacancies. 7468. Incapacity. 7469. Meetings of Board. 7470. Chairman, Duties. 7471. Duties of Clerk. 7472. Duties of Clerk, Annual Report.</p>	<p>§ 7473. Duties of Clerk, District Meetings. § 7474. Duties of Clerk, Warrants. 7475. Treasurer, Duties. 7476. Treasurer, Warrants. § 7477. Warrants, Manner of Drawing. § 7478. Salaries. 7479. School Officers Not Teach. § 7480. Failure of Officers to Report, Penalty. § 7481. False Report. 7482. Power to Administer Oaths. § 7483. Failure to Make Annual Report.</p>
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§ 7458. District Board. The board of each common school district shall consist of a chairman, a clerk and a treasurer, who shall be elected at the time of the school district annual election, each, for a term of three years, as follows: A chairman in 1922 and every three years thereafter; a clerk in 1920 and every three years thereafter; and a treasurer in 1921 and every three years thereafter. Provided, that school officers duly elected and qualified at the time this code takes effect shall continue to serve until the expiration of their respective terms of office.

Source: § 80, Ch. 135, 1907.

§ 7459. Qualify, When, How. Each officer elected under the provisions of this article shall qualify, on or before the second Tuesday in July following his election, by taking the constitutional oath and filing the bond as hereinafter prescribed.

Source: § 82, Ch. 135, 1907.

§ 7460. Failure to Qualify. If any person appointed or elected to a common school district office shall, for one month after the time fixed by law, fail to qualify or give bond as provided by law, or if any such district shall for any reason fail to elect any person to succeed the school officer whose term shall have expired, the office shall be deemed vacant and the county superintendent shall, when notified of such vacancy, proceed to fill the same by appointment and such appointee shall hold the office until the next annual school election, when a successor shall be elected to fill the unexpired term of such office.

Source: § 83, Ch. 135, 1907; Ch. 138, 1911.

§ 7461. Bond of Treasurer. The school treasurer shall, on or before the second Tuesday in July following his election, and before entering upon his duties, give a bond to the school district, conditioned that he will honestly and faithfully discharge his duties as treasurer; that he will render a true account of all funds and property that shall come into his hands, and pay and deliver the same according to law; provided, that a bona fide deposit of school funds in the name of the school district in any bank or depository selected by a majority of the school electors of any school district shall relieve the school treasurer from liability for loss of such deposited funds while on deposit therein. Such bond shall be in such penal sum as may be fixed by the clerk and chairman of the board, but not less than double the sum, as nearly as can be ascertained, to come into the treasurer's hands in any one year, shall be signed by two or more sufficient sureties, and shall be approved by the clerk and chairman of the board; provided, that in all cases where the bond required of the treasurer shall be

greater than one thousand dollars, the treasurer-elect may secure a surety bond subject to the approval of the clerk and chairman of the board, the same as other bonds, and the cost of such bond shall be paid by the district. In case the chairman and clerk refuse or neglect to approve the bond of the district treasurer and the sureties thereon, such treasurer may present the same to the county superintendent and serve notice thereof upon such chairman and clerk; and upon due proof of such notice being made to the county superintendent, he shall, unless good cause for delay appear, proceed to hear and determine the sufficiency of the bond and sureties thereon, and may approve the same, and such approval shall be in all respects valid. Whenever a treasurer of a school district by election or appointment becomes his own successor he shall give a new bond, and all such officers shall qualify anew upon entering upon a new term.

Source: § 85, Ch. 135, 1907.
School district treasurer liable on bond for money deposited in bank which afterwards failed. *De Rock-braine School Dist. No. 1 v. Northern Casualty Co.*, 36 S. D. 392, 155 N. W.

10.
Liability of treasurer for loss of school funds as that of insurer. *Board of Education v. Nelson*, 33 N. D. 462, 157 N. W. 664.

§ 7462. Bond of Clerk. The clerk of the school board shall, on or before the second Tuesday in July following his election, and before entering upon his duties, give a bond to the school district conditioned that he will honestly and faithfully discharge his duties as clerk, that he will render a true account of all property that shall come into his hands as clerk and deliver the same according to law. Such bond shall be in the penal sum of one hundred dollars, shall be signed by two or more sufficient sureties, and shall be approved by the chairman and treasurer. In case of neglect or refusal to approve such bond, it shall be approved in the manner provided in the preceding section for approval of the bond of the treasurer.

Source: § 86, Ch. 135, 1907.

§ 7463. New or Additional Bond. The county superintendent may require a new or additional bond for the district officers whenever deemed necessary by him, or upon the failure, death or removal from the county of any one of the sureties. In case of the breach of any condition of any official bond the county superintendent shall cause an action to be commenced and prosecuted thereon in the corporate name of the school district, and all moneys so collected shall be paid into the county treasury, to be applied to the use of the schools of such district. If the county superintendent either fail or refuse to bring such action upon the breach of the bond, any taxpayer of the district may cause such action to be commenced, and the necessary expenses of such action shall be paid, unless otherwise ordered by the court, out of the county treasury from the funds apportioned to such district.

Source: § 88, Ch. 135, 1907.

§ 7464. Bond and Oath Filed. All official bonds of school district officers shall be filed with the county auditor, and he shall give the county superintendent immediate notice of the same. The oaths and reports of school district officers shall be filed with the county superintendent.

Source: § 89, Ch. 135, 1907.

§ 7465. Not Act Until Qualified. No officer of the school district shall perform any duties of his office nor receive any of the property, money, books or papers belonging to his office, nor any money from the county treasurer or warrants thereon, until he has fully qualified as required by law.

Source: § 87, Ch. 135, 1907.

§ 7466. Temporary Officers. Whenever a school district shall be

formed, the county superintendent shall appoint temporary officers for such school district, who shall serve until the first annual school election following and until their successors are elected and qualified.

Source: § 90, Ch. 135, 1907.

§ 7467. Vacancies. Whenever a vacancy may occur, from any cause in any school district office under the direct supervision of the county superintendent, he shall fill such vacancy by appointment, and such officer shall hold office until the next election, when the vacancy shall be filled by a vote of the electors.

Source: § 91, Ch. 135, 1907.
The right of one appointed to fill a vacancy to hold office expires on the election of another to fill the vacancy at the succeeding annual election. State ex rel. Alexander v. Biggins, 28 S. D. 41, 132 N. W. 677.

§ 7468. Incapacity. If from sickness or any other cause an officer shall become incapacitated or unable to attend to the duties of his office the fact shall be certified to the county superintendent by the clerk of the school district. If the clerk fails to notify the county superintendent of any vacancy that may exist, it shall be the duty of the remaining officer or officers to do so, and a successor shall be appointed to fill such vacancy, and such appointment shall hold until the next regular election.

Source: § 91, Ch. 135, 1907.

§ 7469. Meetings of Board. District boards shall hold regular meetings each year for the transaction of business on the second Tuesday in July, the last Tuesday in November and the last Tuesday in March, at such place and hour as may be fixed by the school board; provided, that the district clerk shall, when requested by a majority of the board, call a special meeting at any time by giving written notice to each member of the board.

Source: § 92, Ch. 135, 1907.

§ 7470. Chairman, Duties. The chairman shall preside at all meetings of the board. In his absence the chairman pro tempore shall preside. The chairman shall perform such other duties as are prescribed by this code.

Source: § 94, Chap. 135, 1907.

§ 7471. Duties of Clerk. The clerk of the board shall keep an accurate record of all proceedings of the board, give or post all notices, make out all reports and statements, shall take census of the children of legal school age in his district as hereinafter provided, and perform all other duties required by law or by order of the board.

Source: § 95, Ch. 135, 1907.

§ 7472. Duties of Clerk, Annual Report. The clerk of each district shall, on or before the first day of August of each year, make, to the county superintendent, an annual report in writing covering the preceding school year and including all the facts and statistics of the school district which are required to be included in the county superintendent's state report and in the same order therein required, except any item therein peculiar to the county and not belonging to the district. He shall also report the branches of study in the graded and ungraded schools separately, the names and addresses of the district school officers, and the dates when their terms severally expire, and all other facts and statistics which the county superintendent may require for his report to the superintendent of public instruction.

Source: § 96, Ch. 135, 1907.

§ 7473. Duties of Clerk, District Meeting. The district clerk shall be clerk of all district meeting, but if such clerk shall not be present, or

being present shall refuse to act at such district meeting, the voters present may appoint a clerk for such meeting, who shall certify the proceedings thereof, and the same shall be recorded by the clerk of the district.

Source: § 97, Ch. 135, 1907.

§ 7474. Duties of Clerk, Warrants. The clerk shall draw and sign all warrants for the payment of money for purposes legally ordered by the board, and every such warrant shall be countersigned by the chairman of the board. No warrant shall be drawn by the clerk except upon the presentation of a bill for the service rendered, duly certified, and the same shall be retained by him as a voucher and placed on file in his office.

Source: § 98, 135, 1907.

§ 7475. Treasurer, Duties. The school treasurer shall keep such accounts and make such reports as are required of him by law. He shall pay no money out of the school funds in his hands except upon the warrant of the school board, signed by the clerk and countersigned by the chairman. He shall pay all warrants properly drawn and signed when presented, so long as there is any money in his hands or subjects to his order for their payment, and shall draw all money in the hands of the county treasurer belonging to his district, at least once every three months in each year.

Source: § 102, Ch. 135, 1907.

§ 7476. Treasurer, Warrants. Whenever a warrant is presented to the treasurer for payment, and there is no money in his hands or subject to his order for the payment of such warrant, he shall indorse on such warrant "Presented for payment thisday of19..... and not paid for want of funds," and sign such indorsement. If he has in his hands or subject to his order money for the part payment of such warrant, he shall make such part payment and indorse the sum on the warrant and add "Balance not paid for want of funds," signing the same. He shall keep a correct register of all warrants so presented and indorsed. Every warrant thus presented and indorsed shall draw interest for the amount unpaid at seven per cent per annum until paid: Provided, that whenever there shall come into the hands of the treasurer, or subject to his order, money applicable to the payment of any warrant which has been so presented and registered, the treasurer shall notify in writing, by mail, the drawee of such warrant, at last known place of residence, to present such warrant for payment, and interest shall cease, upon every such warrant, within ten days after such notice shall have been sent and such money shall be held for the payment of such warrant.

Source: § 103, Ch. 135, 1907.

§ 7477. Warrants, Manner of Drawing. Every warrant drawn by the clerk of the district board on the district treasurer shall specify the purpose for which the money is paid, the fund on which it is drawn, and the person, firm or corporation to whom paid; provided, that no warrant shall be issued except for indebtedness incurred prior to its issue.

Source: § 104, Ch. 135, 1907.

§ 7478. Salaries. The chairman shall receive an annual salary of five dollars, and such remuneration for attending meetings of the school officers as is hereinbefore provided, and shall receive no other compensation for his services as a district officer. The district clerk shall receive a salary of five dollars per annum for every school or department thereof in the district, and in like manner the district treasurer shall receive five dollars per annum for every school or department thereof in the district: Provided, that in computing the salary of such officers no school shall be included unless the same shall have been taught at least three months of the preceding school year; provided, that such salary shall not exceed

twenty-five dollars per annum for the treasurer. They shall each receive additional remuneration for attending meetings of the school officers as hereinbefore provided: Provided, further, that the county superintendent shall, upon receipt of the annual report of the clerk and treasurer, if correct, complete, and received on or before August first of each year, notify the chairman of the school board that such reports have been received. Thereupon the chairman of the school board shall sign the warrant for their annual salary and no part of such salary shall be paid until such notice.

Source: § 105, Ch. 135, 1907.

§ 7479. School Officers Not Teach. No school officer shall be employed to teach, or to draw public money as a teacher in any district, while holding such office, except by permission of the county superintendent.

Source: § 106, Ch. 135, 1907.

§ 7480. Failure of Officers to Report, Penalty. Any school district officer who is required by law to make a report to any other county or school district officer, and who shall wilfully neglect to make such report or fail to perform any of his official duties, shall forfeit and pay to the school funds of such county or district a penalty of not less than ten dollars nor more than fifty dollars, to be recovered from such delinquent officer, or from him and the sureties on his official bond, in a civil action to be brought by the states attorney in any court having jurisdiction.

Source: § 128, Ch. 135, 1907.

§ 7481. False Report. Any clerk or treasurer of a school district who shall wilfully sign or transmit a false report to the county superintendent, or wilfully sign, issue or publish a false statement of facts purporting or appearing to be based upon books, accounts or records, of the affairs, resources and credit of the school district, shall upon conviction be punished by a fine of not exceeding fifty dollars or by imprisonment in the county jail not exceeding fifteen days. Any clerk or treasurer of a school district who shall wilfully mutilate or destroy any of the books, accounts or records of his office, or who shall refuse to deliver to his successor in office all the books, accounts and records of his office on demand of his successor shall be deemed guilty of a misdemeanor, and it shall be the duty of such successor to begin action immediately upon the official bond of such officer for recovery of such money or other property.

Source: § 127, Ch. 135, 1907.

§ 7482. Power to Administer Oaths. District clerks and chairmen are empowered to administer oaths in all matters in which their respective districts may be a party.

Source: § 45, Ch. 135, 1907.

§ 7483. Failure to Make Annual Report. If any district officer fails or neglects to transmit or deliver to the county superintendent the annual report of his district at the time required by law, it shall become the duty of the county superintendent to visit such district officer at his residence in such district and obtain such report. Upon sworn statement of such visit being filed with the county auditor, the county commissioners shall order the sum of five dollars to be transferred from the general fund of such district to the county general fund and a county warrant for that amount shall be issued to the county superintendent.

Source: § 52, Ch. 135, 1907.

ARTICLE 4
DISTRICT BOARDS, POWERS AND DUTIES

§ 7484.	General Control.	§ 7498.	Assessor Furnish Property List to Clerk.
7485.	Transportation.	§ 7499.	Annual Meeting of Board, Tax Levy.
7486.	Make Repairs.	7500.	Commissioners Levy Tax.
7487.	Water Closets.	7501.	Notice of Tax Levy to Auditor.
7488.	Employ Teachers.	7502.	Treasurer's Settlement.
7489.	Nonresident Pupils.	7503.	Accounts, How Kept.
7490.	School Discontinued.	7504.	County Superintendent Ap- prove Reports.
7491.	Appeal from Order Closing.	§ 7505.	Books and Reports Open to Inspection.
7492.	Appeal, General.	§ 7506.	Trees and Shrubs.
7493.	Board Assist Teacher.	§ 7507.	Civic Meetings.
7494.	Removal of School House.		
7495.	Board to Execute Orders of Electors.		
§ 7497.	Conveyance of Site.		

§ 7484. **General Control.** The district school board shall have general charge, direction and management of the school or schools of the district, and the care, custody and control of all the property belonging to it, subject to the provisions of this chapter. It shall organize, maintain and conveniently locate schools for the education of all children of school age within the district. If a petition signed by the persons charged with the support and having the care and custody of seven or more children of school age, all of whom reside not less than three miles from the nearest school, is presented to the board asking for the organization of a school for such children, the board shall organize such school and employ a teacher therefor, if a suitable room can be leased or rented at some proper location not more than three miles distant from the residence of any one of such children.

Source: § 107, Ch. 135, 1907.
School boards have no other powers than those which statutes confer upon them. *Pronovost v. Brunette*, 36 N. D. 288, 162 N. W. 300.
Officers of school district are not

personally liable on contracts made by them exceeding debt limit and in excess of power. *Kenmare School Dist. No. 28 v. Cole*, 36 N. D. 32, L. R. A. 1917D, 516, 161 N. W. 542.

§ 7485. **Transportation.** When pupils reside more than two and one-half miles from the nearest school house in the school district and not to exceed three miles, the parent, guardian, or pupil shall receive from his school district ten cents per day for each pupil; if more than three miles and not to exceed four miles, twenty cents per day; if more than four miles and not to exceed five miles, thirty cents per day; if more than five miles, forty cents per day; Provided, however, that in cases where more than one pupil from any family receives compensation under the provisions of this section, the total amount allowed for any one family shall not exceed twenty cents for traveling three miles or under, forty cents for traveling between three and four miles, sixty cents for traveling between four and five miles, and eighty cents for traveling five miles or more; Provided, that such financial provision shall be only for actual attendance at public school and conditioned that the district in no way furnish means of conveyance; provided, that when any pupil shall have passed the eighth grade, such pupil, his parents or guardian shall not receive payment for transportation to or from school. Provided, that when pupils reside nearer some school in another district, the school board or board of education may make arrangements for the schooling of such pupils at such other school by paying tuition at the rate of three dollars per month for each pupil so enrolled from any such district unless some other rate be agreed to between the school boards of districts concerned prior to the enrollment of any such pupil; such tuition to be computed from the time of enrollment until such pupil leaves such school permanently, or to the close of the school term, and such transportation as pre-

viously provided for in this section. Provided, further, the distance traveled by the most direct route, to be established by the district board, subject to an appeal as provided for appeals from decisions of school boards, relative to school matters shall be the basis of computation. Provided, further, that no township or district shall expend more than eight hundred dollars for transportation in any one year; Provided further, that payments may be made monthly or at the close of the school year in the discretion of the district board, and if bills allowed are in excess of eight hundred dollars, said sum of eight hundred dollars shall be divided pro-rata. Provided, further that in any district in which a public school shall have been discontinued, it shall be the duty of the district school board to make such provisions as shall be determined by the county superintendent for the schooling of the pupils who would ordinarily be in attendance at the school were it not discontinued.

Source: Chap. 183, S. L. 1919.

Source: § 108, Ch. 135, 1907. Ch. 141, 1911; Ch. 196, 1913; Ch. 163, 1915.

District of residence is not liable for transportation allowance where children are sent to another district without school board's consent. Harris v. School Dis. No. 48, 32 S. D. 544, Ann. Cas. 1916A, 267, 143 N. W. 898.

Distances referred to are to be measured by roads which are actually opened and passable. State ex rel. Johnson v. Mostad, 34 N. D. 330, 153

N. W. 349.

School board cannot be compelled to allow children of adjacent district to attend school within such board's district. State ex rel. Johnson v. Mostad, 34 N. D. 330, 153 N. W. 349.

Provisions relating to transportation "to and from school" of children should be liberally construed, and applies whether school is consolidated school or not. State ex rel. Brand v. Mostad, 28 N. D. 244, 148 N. W. 831.

§ 7486. **Make Repairs.** The district school shall make all necessary repairs to school houses, outbuildings and appurtenances, and shall furnish fuel and all necessary supplies for the schools. The board is also authorized to construct and keep in repair such cottages for teachers and such barns and sheds adjacent to the school house as may in their judgment be deemed necessary and for the best interests of the district, provided that no cottage shall be built except upon the affirmative vote of a majority of the electors of the school district voting at the regular annual school election, the ballots used for such purpose to specify the amount proposed to be expended.

Source: Chap. 179, S. L. 1919.

§ 7487. **Water Closets.** The school board shall give special attention to the matter of convenient water closets or privies, and provide on every school house site, not within any city or town, two separate buildings located at the farthest point from the main entrance to the school house, and as far from each other as may be, and keep them in wholesome condition and good repair. In any city or town, where it is inconvenient or undesirable to erect two separate outhouses, several closets may be included under one roof, and if outside the school house each shall be separated from the other by a brick wall, double partition, or other solid or continuous barrier, extending from the roof to the bottom of the vault below, and the approaches to the outside doors for the two sexes shall be separated by a substantial closed fence not less than seven feet high and thirty feet in length.

Source: § 109, Ch. 135, 1907.

§ 7488. **Employ Teachers.** The district school board shall employ the teachers for the schools of the district, and may dismiss any teacher at any time for plain violation of contract, gross immorality, or flagrant neglect of duty; provided, that every contract for the employment of a teacher shall be in writing and authorized by a majority of the members of the district school board; and provided, further, that in any school district consisting of one or more townships, in any school except in a city, town or village of more than fifty inhabitants, if a petition be presented to the clerk of such district or school board on or before the regular school

meeting in July, signed by three-fourths of the parents or guardians of persons of school age belonging to any school in such district, such petition asking that a certain teacher be employed for the following school year, provided such teacher at the time of such meeting is the holder of a valid second or third grade certificate or certificate of higher grade, it shall be the duty of the school board so petitioned to employ such teacher, provided such teacher is willing to teach such school at the wages paid other teachers in the district of like qualifications and holding like certificates. If any member of a school board mentioned in this section shall refuse or fail to employ a teacher as provided in this section, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, be punished by a fine of not less than twenty nor more than fifty dollars.

Source: § 110, Ch. 135, 1907; Ch. 36, 1909.

§ 7489. Nonresident Pupils. The district school board shall admit to the schools in the district, pupils from other districts, when it can be done without injuring or overcrowding such schools, and make regulations for their admission and the payment of their tuition therein. It shall be the duty of the board at the annual July meeting, each year, to make the assignment and distribution of pupils to and among the schools in the district, and in such assignment and distribution the board shall take into consideration the wishes of the patrons and the best interests of the pupils and district.

Source: § 112, Ch. 135, 1907.

§ 7490. School Discontinued. Any school in the district may be discontinued by the district school board, for the purpose of combining two or more schools into one, and such board may make arrangements for the transportation of the pupils to such school if, in the judgment of the board, it is to the best interests of the pupils and the district.

Source: § 113, Ch. 135, 1907.

§ 7491. Appeal from Order Closing. Whenever any school is discontinued, under the preceding section, the patrons of such school may appeal from the order of the board by filing a petition with the county superintendent, signed by at least one third of the patrons thereof. Such petition shall set forth the reasons for the continuance of such school, whereupon the county superintendent shall order a hearing thereon, giving notice of the time and place of such hearing, to the patrons of the school and district board; and if, after such hearing, he shall deem it to the best interests of such school and district he may order the continuance of such school, which order shall be obeyed by the district school board.

Source: § 114, Ch. 135, 1907.

§ 7492. Appeal, General. Any party dissatisfied with a decision of the district school board, relative to school matters, may appeal therefrom to the circuit court of the county at any time within thirty days after the rendering of such decision. Such appeal shall be taken by serving a notice of appeal upon the district school board or board of education, or any member thereof, and by filing such appeal and a bond for costs with the clerk of the school district or board of education. Such notice of appeal must state the decision appealed from, in clear and concise manner. Such bond for costs shall be in the sum of one hundred dollars, with two or more sureties approved by the clerk of courts, conditioned that appellant pay all costs therein that may be adjudged against him. When the notice of appeal and bond for costs is filed with the clerk of the school district or board of education, such school clerk shall, within five days thereafter, transmit to the clerk of courts a certified copy of his record of the decision appealed from, and all original papers filed in his office in such matter, including the notice of appeal and bond for costs therein; and such

clerk may be compelled by the circuit court to transmit such certified copies or original papers, and may be fined for neglect or refusal to transmit the same. For such transcript such clerk shall receive the usual copying fees, to be taxed as part of the costs of suit. And the clerk of courts shall receive and file such papers, and docket the same, in the same manner and receive the same fees therefor, as in appeals from justices' courts. Any matter so appealed shall be entitled in the name of the dissatisfied party as appellant against the school corporation, by its proper name, as respondent. No note of issue or notice of trial need be served to have it placed upon the trial calendar, and the same shall come on for trial in its regular order, at the first regular term following the taking of the appeal. The trial in the circuit court shall be de novo, according to the rules relating to special proceedings of a civil nature, so far as such rules are applicable and not in conflict with the provisions of this section, and the court shall enter such final judgement or order as the circumstances and very right of the case may require, which judgement or order may be enforced by writ of execution, mandamus or prohibition, or by attachment as for contempt. An appeal from any such final judgment or order may be enforced by writ of execution, mandamus or prohibition, or by attachment as for contempt. An appeal from any such final judgment or order may be taken to the supreme court within sixty days after written notice thereof shall have been given to the party appealing, such appeal to be taken, perfected, heard and determined as other appeals in civil cases. Provided, however, that nothing in this section shall be so construed as to authorize any court to reverse the decision nor order of any school board or officers, involving the exercise of discretion and within the jurisdiction of such board or officers, in the absence of manifest abuse of such discretion.

Source: §§ 115, 116, Ch. 135, 1907.
No appeal allowed from an order of county superintendent declaring new consolidated district organized. Complaint on quo warranto held sufficient. Held where two plans were proposed

and the notice of election did not designate which plan was submitted, proceedings void. *State ex rel. Mort v. Tralstead*, 36 S. D. 568, 156 N. W. 75.

§ 7493. Board Assist Teacher. The district school board shall assist and cooperate with the teacher in the government and discipline of the schools, and may make proper rules and regulations thereof. It may suspend or expel from school any pupil insubordinate or habitually disobedient; provided, that such suspension shall not be for a shorter period than ten days nor beyond the end of the current term of school.

Source: § 117, Ch. 135, 1907.

§ 7494. Removal of School House. The school board shall have power to direct the removal of a school house to a more convenient location, upon the affirmative vote of a majority of the electors of the entire district, or upon the affirmative vote of two-thirds of the electors of such district voting upon the proposition at any regular election, or special election called for that purpose, providing notice of the proposition for such removal to be voted upon shall have been given with the notice of such election: Provided, that in districts in which there shall be but one school house a two-thirds affirmative vote of the electors of the entire district shall be necessary to remove such school house from the center of the district to any point in the district, but when such removal shall be to the center of the district, a majority vote shall be sufficient; provided, further, that any point within one hundred and sixty rods of the geographical center of the district shall be deemed the center for the purposes of this section.

Source: § 119, Ch. 135, 1907; Ch. 221, 1917.

Complaint in action to compel return of school house, showing that only sixty-five qualified electors out of

one hundred and fifty voted in favor of removal, states causes of action. *Lavery v. School District*, 28 S. D. 166, 132 N. W. 683.

§ 7495. Board to Execute Orders of Electors. It shall be the duty of the school board to purchase or lease school house sites, build, hire, purchase, sell and remove school houses, when lawfully directed by the electors of the district, and to carry into effect all lawful orders of the same.

Source: § 121, Ch. 135, 1907.
Warrants issued to build school house without ratification of electors void. District not estopped to defend on the ground that warrants

were issued in excess of powers. Purchasers of warrants charged with notice that powers have been exceeded. *Farmers' & Merchants' Bank v. School District*, 6 Dak. 255, 42 N. W. 767.

§ 7496. It shall be lawful for any school board to take and hold land, not exceeding two acres, situated upon a section line or upon a regularly laid out highway, legally chosen as a school house site by a lawful district meeting. If the owner of such land refuses or neglects to grant such site to the district or cannot be found, the county superintendent shall upon application proceed according to law to condemn and acquire title to the same in the name of such district. When any such site or building thereon is no longer necessary, suitable or convenient for school purposes, the district school board or board of education, on petition of a majority of the electors of such district, shall separately appraise the land and any buildings thereon to be sold, and shall sell and convey the same, by first offering said land or buildings or both at said appraised value to the record owner of the legal subdivision of which said site forms a part. If said record owner fails or refuses to pay the appraised value of either the land or buildings or both thereof within sixty (60) days after said offer is made, the said land and buildings thereon shall be offered separately at public sale, after thirty (30) days notice in writing, which notice shall describe the property to be sold shall state the time and place of sale, and shall be posted in three (3) of the most public places in such district. All property offered at such public sale shall be sold to the highest bidder for cash, and upon receipt of the purchase price thereof by the treasurer of such district, a quit claim deed or bill of sale therefor, as the case may require, shall be executed by the chairman or president of the board and attested by the clerk or secretary thereof; provided, that nothing contained in this act shall affect any deed or conveyance originally conveying any such site to the district, and containing a reversion clause whereby any such site may revert to the original grantor, his heirs or assigns.

Whenever a school house site shall have been lawfully selected on common school or endowment lands of this state, not exceeding two acres in a square form, located on a section line or a regularly established highway, at one corner of a legal subdivision and not within forty rods of any residence, without the consent of the owner thereof, and a plat of the lands so selected shall have been filed in the office of the commissioner of school and public lands, the board of school and public lands is authorized to direct an appraisal of such site and the same shall be appraised in the manner provided by law for the appraisal of school and public lands. Such appraisal shall not be less than the minimum price fixed by the constitution for school and public lands.

Approved February 27, 1919.

Source: Ch. 180, S. L. 1919.

§ 7497. Conveyance of Site. Upon the payment of the full amount of the appraised price of such site, a conveyance shall be executed by the governor, attested by the commissioner of school and public lands, with his seal of office affixed, conditioned that should the same cease to be used for two successive years, for the purpose of maintaining a public school thereon, the title shall revert to the owner of the legal subdivision of which such site forms a part.

Source: § 123, Ch. 135, 1907.

§ 7498. Assessor Furnish Property List to Clerk. Every township or county assessor shall, on or before the first day of July in each year, furnish to the clerk of each school corporation a certificate of the valuation of all real and personal property subject to taxation within the corporation for the current year.

Source: § 124, Ch. 135, 1907.

§ 7499. Annual Meeting of Board, Tax Levy. At the annual meeting of the school district board in July of each year, it shall be the duty of the clerk and the treasurer to read their respective annual reports and the board shall verify them as herein provided. And such board by resolution shall levy such tax as the patrons shall have directed at the annual election, but it shall not exceed for all purposes one and one-half per cent of the taxable property of the district. If any school district fails to hold in any school year at least seven months of school in any school house in the district, providing no legal discontinuance be had, it shall be the duty of the county superintendent to notify the county treasurer of the amount of money due such district from the apportionment fund for the semi-annual term ended the thirtieth day of June of the preceding year, which amount shall remain to the credit of such district and no warrant be drawn therefor until such district shall have complied with the law, unless the district board made provision for the instruction of the pupils for the required time in some other school. In case of failure in any district to levy a tax sufficient to support a school for the number of months above named, the board of county commissioners shall levy a tax on the property of the district sufficient for the purpose: Provided, that in case any district board shall fail or neglect to maintain seven months of school in any one school year in any school house in the district, provided no legal discontinuance be had, the county superintendent shall have power, and it shall be his duty to institute proceedings in the circuit court to compel such district board to comply with the provisions of this section, which proceedings shall be conducted by the states attorney.

Source: § 120, Ch. 135, 1907; Ch. 212.

§ 7500.. Commissioners Levy Tax. The county commissioners of each county shall levy a tax of one dollar on each elector in the county for the support of the common schools, which tax, when collected, shall be distributed to the several school corporations in the county in proportion to the number of children, resident in the territory of each, over six and under twenty-one years of age.

Source: § 125, Ch. 135, 1907.

§ 7501. Notice of Tax Levy to Auditor. It shall be the duty of the district clerk, on or before the twentieth day of July in each year, to notify the county auditor of the amount of tax voted at the last annual meeting and levied by the district school board, and of any and all other tax of which notice has not previously been given. The notice shall be substantially in the following form:

District Clerk's Office.
School No.....
.....County, South Dakota.
....., 19.....

To the county auditor of.....County, S. D.

Sir: You are hereby notified that at a..... meeting of
.....District No.....held on the.....day
of..... the following tax was voted for the coming school
year:

For tuition funddollars
For general funddollars

For interest and sinking funddollars
 Totaldollars
 (Signed).....

District Clerk.

The rate per cent of all school taxes shall be calculated and fixed by the county auditor, who shall consolidate the amounts and extend the school tax in one column.

Source: § 129, Ch. 135, 1907.

§ 7502. Treasurer's Settlement. At the annual meeting of the school board on the second Tuesday of July in each year, the incoming district board shall make settlement with the district treasurer, who shall at that meeting make his annual report in triplicate, one copy to be preserved in the treasurer' office; and, upon approval of the same by the district board, one approved copy to be transmitted by such clerk to the county superintendent on or before the first day of August of each year. On making such settlement it shall be the duty of the district board to compare the certified bills allowed by the board with the orders issued, also to compare the orders paid by the district treasurer the preceding year with the clerk's record of orders issued; and also compare the record of the money received and orders paid by such treasurer with his annual report, and if found correct the report shall be approved and the orders canceled and filed with the district clerk. The board shall cause to be posted in three public places, or published in a newspaper of general circulation in the county, an itemized statement of the receipts and expenditures for the preceding school year.

Source: § 126, Ch. 135, 1907.

§ 7503. Accounts, How Kept. All money apportioned by the county superintendent to the district or received from the district tax for tuition purposes shall constitute the tuition fund. All money received from other sources shall constitute the general fund. The treasurer shall keep one general account wherein he shall set down on the debit side all money he shall receive as treasurer from all sources whatever, each entry showing plainly the source of the particular payment to him, with the date thereof and he shall set down upon the credit side all money he shall pay out for all purposes whatever, each entry showing to whom and for what purpose each payment was made, with the date thereof. The debit side shall always be balanced by the total of the credit side, with the funds on hand added thereto. At the beginning of every school year he shall open such account anew for that year, and the first item shall be an entry on the debit side of the balance on hand, if any, for the preceding year. He shall also keep a separate set of accounts of different classes of receipts and expenditures, showing severally the following:

RECEIPTS.

Amount received into the tuition fund from all sources
 Amount received into the general fund from all sources.....
 Amount received into the interest and sinking fund from all sources.....

EXPENDITURES.

Amount paid for tuition
 Amount paid for school houses, sites and furniture
 Amount paid for incidental expenses
 Amount paid as interest on bonds
 Amount paid upon debts and liabilities not included in other items.....

The several accounts shall be separately kept and not required to balance. The accounts for different classes of receipts shall be kept separately from the accounts of the different classes of expenditures; but every entry in each shall fully and clearly designate its source or purpose, with the dates.

Source: § 130, Ch. 135, 1907.

§ 7504. County Superintendent Approve Reports. All reports and records of district officers and proceedings of district meetings shall be subject to the approval of the county superintendent, and if any money belonging to any district shall be expended for supporting a school in which the English language shall not be taught exclusively, or if any such money be otherwise unlawfully expended, the county superintendent or any taxpayer of the district may in a civil action in the name of the district recover such money from the officer so expending it.

Source: § 131, Ch. 135, 1907; Ch. 143, 1911.

§ 7505. Books and Reports Open to Inspection. All reports and all books, records, vouchers, contracts and papers relating to the school houses, schools and school business in the district, in the office of the clerk or treasurer, shall be at all times open to the inspection of the chairman, who shall advise and aid in securing correct records and accounts, and legal reports, and they shall likewise be open to the inspection of the state and county superintendents, and any particular paper or record shall be exhibited at reasonable hours to the examination of any voter or taxpayer.

Source: § 132, Ch. 135, 1907.

§ 7506. Trees and Shrubs. It shall be the duty of the officers of every school district to plant trees and shrubs upon the grounds of each school house and to encourage the school children to plant such trees and shrubs and to cultivate and protect the same. Where stock is permitted to run at large, it shall be the duty of school officers to cause to be erected about the grounds of every school house a substantial fence sufficient to protect the trees upon the school house grounds from destruction by livestock, and such fence shall be provided with convenient gates or stiles.

Source: § 134, Ch. 135, 1907.

§ 7507. Civic Meetings. For promoting and developing the highest and best ideals of citizenship the electors of any rural school district in this state may, by a majority vote of those voting at the annual school election, levy a tax not exceeding fifty dollars for any one year, to be collected and disbursed like other school funds under the direction of the school board, to assist in the organization, management and direction of non-political, non-sectarian public gatherings of the citizens of such school district, for the presentation and discussion of public questions, or for such other civic, social and educational activities as the electors of the school district may direct; provided, that at least twenty-five per cent of the electors of any such school district shall, at least fifteen days before any annual school election, petition the school board to submit the question to a vote, and notice of the submission of such question shall be included in the notice for such annual school election.

Source: Ch. 223, 1917.

ARTICLE 5.
TEACHERS AND SCHOOLS

§ 7508. Employment. § 7509. Give Notice of Beginning of School. § 7510. Make Term Report. § 7511. Branches Taught. § 7512. Unlawful to Give Instruction in Foreign Language. § 7513. Board Provide Register.	§ 7514. Board Provide Equipment. § 7515. Disturbance of Public School. § 7516. Defacement of School Property. § 7517. Tuition for Eighth Grade Pupils. § 7518. Contracts Prohibited.
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§ 7508. **Employment.** Teachers shall be employed only upon the exhibition of the teacher's certificate valid in the county where employed, and then only upon a written contract signed by the teacher and at least two members of the district school board, which shall specify the date at or about which the school shall begin, the length of time it shall continue, the wages per month and the time of payment thereof, and such contract shall be signed in duplicate, and one copy filed in the office of the clerk and the other retained by the teacher. The following conditions shall be understood as forming a part of every contract, whether expressed therein or not:

1. The teacher shall not hold school upon any of the following legal holidays: The thirtieth day of May, the fourth day of July, the day appointed by the president of the United States for national thanksgiving, and the twenty-fifth day of December. But such days shall count as part of the term and the teacher shall be paid therefor, but no pay shall be drawn for any Sunday.

2. School shall be adjourned during the session of the county normal institute, when the teachers have been notified by the county superintendent.

3. Teachers shall receive into their schools pupils transferred thereto by the order of the district board, or admitted by its authority.

4. Teachers shall send the notices, keep proper entries in the register which shall show the grade in which each pupil belongs, the pupil's standing as shown by the examination, and such other information as will assist the succeeding teacher in the conduct and management of the school, and make the reports required by law; the county superintendent shall promptly furnish, without cost to the teacher, the blank forms for such reports; and the district board shall furnish for use the proper register prepared so that the required facts and statistics can be kept in an orderly manner.

5. Teachers shall classify the work of their schools in accordance with the suggestions, grades and outlines prescribed in the course of study recommended by a majority of the county superintendents of the state and the superintendent of public instruction, and shall hold examinations and make reports as prescribed therein.

6. The county superintendent shall divide his county into districts as may be convenient for the purpose of holding district teachers' institutes during the school year on Saturdays, and all teachers employed in the schools of each institute district shall be required to attend the meetings in such district, but not less than two nor more than four such meetings shall be held in each district during any school year, nor shall such meeting be held oftener than once in two months. The county superintendent shall organize the teachers of each institute district at or near the beginning of the school year by appointing a manager and a secretary from among the teachers of the district, who shall, in conjunction with the county superintendent, prepare the programs for the several meetings to be held, and it shall be the county superintendent's duty to give all the teachers of the districts at least two weeks notice of such meeting. Each

meeting shall consist of one session of approximately three hours. The program shall be so arranged that all teachers of the district shall be given an active part as often as practicable. The work as outlined by the state teachers' reading circle board shall constitute one-third of the work, and the balance of the program shall also be for the general improvement of the teachers. The manager and the county superintendent shall keep complete records of the work at such meetings, which shall show the absence, tardiness and attendance of all teachers and the manner in which each one perform the duty or duties assigned. Within five days after the holding of such district institute, the county superintendent shall forward the clerk of the school board, or the secretary of the board of education of all schools in the institute district, a certificate of attendance, duly signed and sealed, which shall entitle the holder thereof to the sum of two dollars, and five cents mileage each way for every mile necessarily traveled from the residence of the teacher in the district to the place of holding the institute, but such attendance shall be in the institute district in which the school is located: Provided, that if a teacher fails to attend the district institute, after due notice, or fails to perform the duty or duties assigned, the county superintendent shall certify that fact to the clerk of the school board, or to the secretary of the board of education of the school district in which such teacher may be employed, who shall then cause to be deducted the sum of one dollar and fifty cents from the salary of such teacher, unless such absence shall be caused by illness or other reason as shall be approved by the county superintendent; provided, further, that whenever a teacher of any school or the majority of the teachers of a graded school desire to attend a state or district state association, the school board or the board of education is authorized to close such school or schools for not more than five days, to enable such teacher or teachers to do so; provided, that the teacher or teachers must make up any time so lost unless the school board or board of education by a resolution otherwise directs.

Source: § 136, Ch. 135, 1907; Ch. 143, 1909. Qualification of candidate for teacher as affecting action of board in making selection. *Woll v. Jensen*, 36 N. D. 250, 162 N. W. 403.

§ 7509. Give Notice of Beginning of School. Every teacher on commencing a term of school shall give written notice to the county superintendent of the time and place of beginning such school, and the probable time when it will end.

Source: § 137, Chap. 135, 1907.

§ 7510. Make Term Report. Every teacher of a common school shall at the expiration of each term immediately make out full duplicate reports and deliver one copy thereof to the school clerk and one to the county superintendent. Such report shall show the names, ages and sex of all pupils admitted during the term, the branches taught, the studies pursued by each pupil, the text books used, the number of days taught, the number of days each pupil was present, the average daily attendance, the date when school began and ended, the salary per month and information concerning the school and property. In addition to the above his report shall show the grade in which each pupil belongs; his standing as shown by the monthly and term examinations, the daily program of class recitations, and such other information as may be required by the county superintendent. The teacher shall also make monthly reports to parents and to county superintendents when blanks for the same are furnished. And until such report shall have been filed with the clerk, the school board shall not pay more than ninety per cent of the wages of such teacher for his or her services as such, for the time required to be covered by such report: Provided, that any teacher who wilfully neglects to give notices and make reports as herein provided or who shall refuse to fulfill the con-

ditions of his contract, unless such neglect or refusal be on account of sickness, shall thereby forfeit his certificate to teach.

Source: § 140, Ch. 135, 1907.

§ 7511. Branches Taught. Instruction shall be given in all the common schools of the state, both public and private, in the English language only, in the following branches, in the several grades in which they may be required in the State Course of Study: Reading, writing, orthography, arithmetic, geography, primary language and English grammar, history of the United States, history of South Dakota, physiology and hygiene, with special instruction as to the nature of alcoholic drinks, narcotics, and habit-forming drugs and their effects upon the human system, civil government, drawing, and such other branches, including such high school subjects as the electors of the district at the annual election may have ordered: Provided, that if high school branches are ordered taught the board shall hire a teacher holding at least a state certificate.

Source: Ch. 168, S. L. 1919.

§ 7512. Unlawful to Give Instruction in Foreign Language. It shall be unlawful to teach any subject, except foreign and ancient languages, in any high school, academy, college or higher institution of learning in this state in any except the English language, or to teach any subject, except foreign and ancient languages and religious subjects, in any private school private academy, private college or any private higher institution of learning in this state in any except the English language. Any instructor, school officer or person who shall violate this section shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than one hundred dollars, and, in case of any teacher, such conviction shall be sufficient ground for revocation of his certificate by the superintendent of public instruction.

Source: Ch. 41, 1918

§ 7513. Board Provide Register. The board of every school district shall provide one classification school register for each school therein, of the form prescribed by the superintendent of public instruction, and keep the same as part of its records, except during each term of school, when the teacher shall keep such register and record therein each day the attendance of each pupil and the absence of those enrolled, and all other items necessary for making the report required.

Source: § 139, Ch. 135, 1907.

§ 7514. Board Provide Equipment. Each school and each school room, containing one or more of grades three to eight inclusive, and each ungraded district school shall be supplied with a dictionary of some standard grade of a kind and edition approved by the county superintendent of schools, a globe of some standard grade, a well-mounted and recent set of wall maps, black boards, and other suitable apparatus for efficient teaching, within thirty days after a request in writing for the same has been made by the teacher. And the district school board may also provide for each school such other high grade library books and books of reference as it may deem for the best interests of the school: Provided, the expense for books and other equipment as enumerated above shall not exceed fifty dollars for any school in any one year; provided, further, that no district school board shall buy any apparatus, chart, or similar device unless the board is expressly authorized so to do by a majority of the school electors of such school district at a regular or regularly called special meeting thereof.

Source: § 145, Ch. 135, 1907; Ch. 145, 1911.

§ 7515. Disturbance of Public School. Every person, whether pupil or not, who shall wilfully molest or disturb a public school when in session,

or who shall wilfully interfere with or interrupt the proper order or management of a public school by acts of violence, boisterous conduct or threatening language, so as to prevent the teacher or any pupil from performing his duty, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding twenty-five dollars or by imprisonment in the county jail not exceeding ten days, or by both such fine and imprisonment.

Source: § 141, Ch. 135, 1907.

§ 7516. Defacement of School Property. Any pupil, who cuts, defaces or otherwise injures any school house, apparatus or outbuilding thereof, is liable to suspension or expulsion; and, on the complaint of the teacher to any member of the school board, the parents or guardians of such pupil shall be liable for all damages.

Source: § 142, Ch. 135, 1907.

§ 7517. Tuition for Eighth Grade Pupils. Any pupil who shall successfully complete the work of the eighth grade, as established in the state course of study, and who shall hold a common school diploma granted by the county superintendent is privileged to continue his school work up to and including the twelfth grade by attending any graded school, high school or normal school in the state furnishing a higher course of study, and three and one-half dollars per month of the tuition charge therefor shall be paid by the board of his home district from its general fund, if his home district does not provide instruction in such higher grades, and any tuition charge in excess of said three and one-half dollars per month, which in addition thereto shall not exceed the actual per capita cost per month of schooling a student in such graded school, shall be paid by the student or his parent or guardian.

Source: § 147, Ch. 135, 1907; Ch. 150, 1909; Ch. 137, 1911; Ch. 216, 1917.
One who moves to city for winter and lives in rented house, intending

to remove to farm in summer after school year, not a resident of city. Gardner v. Board, 5 Dak. 259, 38 N. W. 433.

§ 7518. Contracts Prohibited. No contract shall be binding on any school district except it be made by the school board or board of education, acting as such, at a regular or regularly called special meeting, excepting contracts for the employment of teachers.

Source: § 146, Ch. 135, 1907.

ARTICLE 6.

UNORGANIZED COUNTIES

§ 7519. County Constitutes School Corporation.	§ 7522. Tax Levy.
§ 7520. District Board.	§ 7523. Bonds.
§ 7521. Organization.	§ 7524. High School.
	§ 7525. Laws Applicable.

§ 7519. County Constitutes School Corporation. Each unorganized county shall constitute a common school corporation, to be known as the District School of County, naming the county in which it is created. Such corporation may sue and be sued and exercise the powers conferred by this article, and shall be attached for school purposes to the county to which such unorganized county is attached for state and judicial purposes.

Source: § 1, Ch. 222, 1917.

§ 7520. District Board. The management and affairs of such school district shall be under the supervision and control of a district school board to be composed of five residents of the county, to be appointed by

the governor, one of whom shall be appointed for a period of one year, two for a period of two years, and two for a period of three years, each succeeding member of which shall be appointed for a period of three years and each member of such board shall, before entering upon the duties of his office, furnish a good and sufficient bond with the same conditions and in the sum now required by law of members of district school boards in organized counties, which bond shall be approved by the governor and filed in the office of the state superintendent of public instruction.

Source: § 1, Ch. 222, 1917.

§ 7521. Organization. Such board shall organize by electing one of its members chairman and appointing a clerk and treasurer, who shall furnish bonds running in the name of the state, in such sums and subject to such conditions as are required by law for bonds of clerks and treasurers of district school boards in organized counties, save and except that such bonds shall be approved by the governor and filed in the office of the state superintendent of public instruction; provided, however, that no district school board shall be appointed, and no schools shall be established, within any unorganized county in this state until it shall have been made to appear to the satisfaction of the governor that there is an actual bona fide demand for such schools, and that there is sufficient taxable property in the county to support the same.

Source: § 1, Ch. 222, 1917.

§ 7522. Tax Levy. Such board shall have power to levy upon the taxable property of the district a tax for school purposes of not exceeding ten mills on the dollar in each year, which levy shall be made by resolution of the board at its regular July meeting in each year in specific amounts in dollars and cents. Upon the making of such levy it shall be the duty of the chairman and clerk of such board to immediately certify to the county auditor of the county to which such unorganized county is attached for judicial purposes, the total amount of tax so levied together with a certified copy of the resolution of the board adopting the same; the tax so levied shall be spread upon the books and collected in the same manner as provided by law for the collection of taxes for state and judicial purposes, and all laws of this state relating to the collection of taxes for state and judicial purposes shall apply to the collection of taxes for school purposes. All money collected or received under the provisions of this article, as well as all funds received by apportionment, by the county treasurer of the county to which such unorganized county may be attached, shall be remitted, at the times and in the manner required by the laws of this state relating to organized counties, to the treasurer of the school district in such unorganized county. Such district school board may organize, maintain and locate, at points most convenient and advantageous, schools for the education of all children of school age within the district; provided, however, that such board shall not, for the organization or maintenance of schools within such district, incur any expense in excess of the amounts levied in each year for school purposes, and any indebtedness attempted to be created by such board in excess of such levy shall be void.

Source: § 1, Ch. 222, 1917.

§ 7523. Bonds. For the purpose of constructing school buildings in such district, such board, subject to the approval of the governor, is vested with authority to issue bonds in the denomination, for the time, at the rate of interest, subject to the same limitations, and in the same form as provided by law for district school bonds in organized counties; such bonds shall be executed in the name of the district by each member of the board, and shall be countersigned by the clerk and treasurer thereof and approved by the governor. The bonds issued under the provisions of this

article shall not be in excess of four per cent of the assessed valuation of the taxable property in the district.

Source: § 1, Ch. 222, 1917.

§ 7524. **High School.** It shall be lawful for such board, by and with the consent and approval of the governor, whenever it shall be made to appear that there is an actual demand and necessity for a high school in such county, to establish at some centrally located point most convenient and advantageous for the largest number of pupils, and to be designated by the governor, a high school in which shall be established and taught such courses and subjects as shall receive the sanction and approval of the governor. Such high school shall be maintained out of the funds levied for school purposes in such unorganized county.

Source: § 2, Ch. 222, 1917.

§ 7525. **County Superintendent.** Whenever any district school board shall have been appointed and schools establish in any unorganized county in this state, it shall be the duty of the governor to appoint a county superintendent of schools for such unorganized county, who shall receive a salary of not to exceed fifty dollars per month and necessary traveling expenses actually incurred in the performances of his duties, and who shall perform such duties and have such jurisdiction and authority as prescribed by law for county superintendents of schools in organized counties. The salary of such county superintendent of schools shall be paid from the money levied for school purposes in each year.

Source: § 3, Ch. 222, 1917.

§ 7526. **Laws Applicable.** All laws of this state relating to education and district schools and district school boards shall, so far as applicable and not in conflict with the provisions of this article, apply to schools in unorganized counties.

Source: § 4, Ch. 222, 1917.

ARTICLE 7.
UNORGANIZED TERRITORY

- | | |
|--------------------------------------------------|---------------------------------------|
| § 7527. Pupils Provided with Means of Education. | § 7530. Report of Superintendent. |
| § 7528. Advanced Pupils. | § 7531. Duty of County Commissioners. |
| § 7529. Enumeration of Pupils. | |

§ 7527. **Pupils Provided with Means of Education.** Whenever children of school age reside in territory not organized into a school district it shall be the duty of the county commissioners to provide for the education of such children by making provision for the payment of their tuition in, and transportation to, some school in an organized school district, or by establishing schools in unorganized territory: Provided, that the board of county commissioners may, in lieu of providing transportation or establishing schools, expend a reasonable amount for room and board of such pupils, whose attendance at school can be provided for by such means more economically and satisfactorily.

Source: Ch. 192, 1913; § 1, Ch. 169, 1915.

§ 7528. **Advanced Pupils.** Any such pupil who shall successfully complete the work of the eighth grade as established in the state course of study, and who shall hold a common school diploma granted by the county superintendent, is privileged to continue his school work up to and including the twelfth grade by attending graded school, high school

or normal school in the state furnishing a higher course of study, and not to exceed three and one-half dollars per month of the tuition charge therefor shall be paid by the county commissioners from the fund herein provided for, and any tuition charge in excess of such sum per month, which, in addition thereto shall not exceed the actual per capita cost per month of schooling a pupil in such graded school, shall be paid by the pupil or his or her parent or guardian.

Source: § 2, Ch. 169, 1915.

§ 7529. Enumeration of Pupils. It shall be the duty of the county superintendent to cause a census to be taken each year, on or before the first Monday of June, of all children under twenty-one and over six years of age, residing in the territory of his county not organized into school districts, and the expense thereof shall be paid by the county commissioners from the fund herein provided. Such census shall be taken in the same form and manner as the census in school districts and shall show the age of the child on the first day of May of that year. Such census shall be filed with the county superintendent, who shall examine and compare the same and, if found to be inaccurate or incomplete, it shall be his duty to cause a new census to be taken and paid for in the same manner.

Source: § 3, Ch. 169, 1915.

§ 7530. Report of Superintendent. On or before the first day of July in each year, such county superintendent shall report under oath to the commissioner of school and public lands, the enumeration of children of school age residing in the territory of his county not organized into school districts according to the census herein provided for. It shall be the duty of the commissioner of school and public lands to examine and compare the same and if inaccurate or incomplete, he shall require a re-enumeration as heretofore provided for. Upon the census of the school children herein provided for, together with the children reported from school districts, the commissioner of school and public lands shall apportion the school funds as provided by law. It shall be the duty of the county treasurer upon receipt of the apportionment funds for the schools of his county to determine the amount thereof to which the territory not organized into school districts is entitled on the basis of the number of school children residing herein and credit such amount to the fund to be designated as the "School Fund for Unorganized Territory," which funds shall be used for carrying out the provisions of this article.

Source: § 4, Ch. 169, 1915.

§ 7531. Duty of County Commissioners. The county commissioners of any county containing territory not organized into school districts shall have the power to levy upon the property of such territory a sufficient tax for school purposes for carrying out the provisions of this article, which levy shall be made and collected at the same time and in the same manner as the levy for county general purposes. When collected, such tax shall be credited to the school fund for unorganized territory, to be used under the direction of the county commissioners for carrying out the provisions of this article.

Source: § 5, Ch. 169, 1915.

CHAPTER 4.
INDEPENDENT SCHOOL DISTRICTS.

ARTICLE 1.
ORGANIZATION.

§ 7532. Independent Districts Defined.	§ 7536. Inclusion and Exclusion of Territory.
§ 7533. Existing Boundaries Continue.	§ 7537. Name, General Powers.
§ 7534. Incorporation of Town Creates Independent District.	§ 7538. Shall Maintain School Not Less Than Six nor More Than Ten Months.
§ 7535. Committee of Arbitration, Adjustment of Rights.	

§ 7532. **Independent Districts Defined.** Any territory, having within its boundaries any city or incorporated town, heretofore organized for school purposes under or by operation of any special or general law, and any such territory hereafter organized for school purposes shall be known as an independent school district, the boundaries of which may or may not coincide with the boundaries of the city or town therein; such district shall constitute a public corporation distinct from the municipal corporation, and shall be governed by the provisions of this chapter; and every school corporation existing and operating, when this code takes effect, as an independent school district, though there be no city or town within its boundaries, shall continue as such and be governed by the provisions of this chapter until changed in some manner authorized by law.

Source: § 174, Ch. 135, 1907; Ch. 214, 1909; Ch. 224, 1917. Construed. *Viland v. Board of Education*, 38 S. D. 440, 161 N. W. 810.

§ 7533. **Existing Boundaries Continue.** The boundaries of all independent school districts shall continue as established when this code takes effect, until changed in some manner authorized by law.

§ 7534. **Incorporation of Town Creates Independent District.** The incorporation of any town within the boundaries of any one or more districts shall ipso facto operate to organize an independent school district, embracing all the territory of the former district or districts; and the county superintendent shall, without delay, give notice of the election of officers for the new district, by posting notices in not less than three public places in such district.

Source: Ch. 224, 1917.

§ 7535. **Committee of Arbitration, Adjustment of Rights.** Whenever a new independent district is organized as provided in the preceding section, the county superintendent, the president of the board of education of the district thus organized, and the chairman of the school district superseded by the organization of the new district, shall constitute a committee of arbitration for the purpose of adjusting all property interests, liabilities, bonds or other forms of indebtedness between the new corporation and the district or districts superseded by its formation. The title to all real and personal property granted to the new corporation by the committee of arbitration shall be transferred to such corporation by the district or districts superseded and in which title to such property was previously vested, upon order of such committee. And all personal property granted to the new corporation shall be delivered to the proper officer by those having it in charge, upon demand accompanied by the order of the committee. And the new corporation shall be liable for and shall assume and pay all the outstanding debts, liabilities and bonds, and the accrued interest thereon, of the school district or districts superseded by the new corporation and the law which authorized the superseded district or dis-

tricts to incur such liabilities and debts, or to issue bonds, shall apply to the new corporation the same as if it had originally been authorized to incur or issue, and had incurred and issued such liabilities, debts or bonds. The debts liabilities and bonds shall be deemed in law to be those of the new corporation, with the same validity for securing and enforcing the payment of principal and interest that, existed against the district or districts that incurred or issued them. It shall be the duty of the county superintendent to file with the county auditor a correct plat showing the adjustment of district boundaries in consequence of the formation and organization of the district as above provided.

Source: § 175, Ch. 135, 1907; § 1, Ch. 134, 1911.

Independent school district created by incorporation of city under general law was not affected by subse-

quent exclusion of part of city's territory. Independent School Dis. v. Independent School Dist. No. 2, 35, S. D. 474, 152 N. W. 706.

§ 7536. Inclusion and Exclusion of Territory. Territory adjacent to any independent district may be included therein, and territory within any independent district may be taken therefrom and included in any adjacent district, in the following manner:

1. Application by written petition for such change must be made by a majority of the resident electors desiring to have territory included or excluded from any independent district.

2. Upon receipt of such petition the county superintendent shall call a committee to decide upon granting or refusing the petition, such committee consisting of himself, the president of the board of education of such independent district, and the chairman of the district board.

3. The committee shall consider the interests of the corporations concerned, the convenience of the petitioners and the permanent school interest, and if they deem it proper, shall grant the petition and issue an order authorizing the inclusion of such territory in the independent district or school districts to which it is adjacent.

4. The committee shall also have power to adjust all property interests involved in the change which concern the corporations interested. Before the issuance of an order authorizing the change, it shall make an equitable adjustment of any question of indebtedness involved.

5. A record of the decision of the committee shall be transmitted to the clerks of the school board and board of education interested, for record, and a copy forwarded to the county auditor by the superintendent.

6. Such territory shall, from the date of the order authorizing such change, be a part of the district in which it is ordered included. Such order shall not be issued until after the action and decision of the committee are recorded by the board of education and the district school board; provided, that territory more than two miles from the limits of the city or town, within the independent district, shall not be considered "adjacent territory," within the provisions of this section, unless the electors of such territory shall unanimously petition that it be so considered; provided, further, that when the inclusion of the adjacent territory within two miles of the city or town limits will leave territory in any district or districts which is impracticable or inconvenient for school purposes, the committee provided for this section may, upon a petition of a majority of the electors in such territory, include the same in the independent district, but in such case the order of the committee shall take effect at the expiration of thirty days from the date thereof.

7. An appeal may be taken from any decision of the committee, by any or all the petitioners or by any of the school districts interested, to the circuit court of the county in which the territory proposed to be included or excluded is situated, upon notice in writing to the other interested parties, that is, to the committee and school boards and boards of education interested and the petitioners, as the case may be, by service upon any member of the committee, upon any member of each of the

school boards or boards of education interested, and upon any one of the petitioners, and upon filing a bond in the office of the clerk of courts in the sum of two hundred and fifty dollars, with at least two sureties to be approved by the clerk of courts, conditioned that appellant will pay all costs therein that may be adjudged against him. Proof of the service of such notice of appeal, by affidavit, shall be filed with the clerk of courts; after the filing of the bond for costs and proof of service of the notice of appeal in the office of the clerk of courts, the committee shall within five days transmit to the clerk of courts the petition and decision of the committee, and all original papers in the matter in controversy. Such committee may be compelled by the courts to transmit such decision and petition and original papers, and may be fined for neglect or refusal to transmit the same. The matter so appealed shall be entitled in the names of the parties appealing as plaintiffs, and the other interested parties as defendants. No note of issue or notice of trial need be served to have it placed upon the trial calendar, and the same shall come on for trial in its regular order, at the first regular term following the taking of the appeal. The trial in the circuit court shall be de novo, according to their rules relating to special proceeding of a civil nature, so far as such rules are applicable and not in conflict with the provisions of this section, and the court shall enter such final judgment or order as the circumstances and very right of the case may require, which judgment or order may be enforced by a writ of execution, mandamus or prohibition or by attachment as for contempt; provided, that nothing in this section shall be so construed as to authorize any court to reverse the decision or order of any school board or officer involving the exercise of discretion and within the jurisdiction of such board or officer, in the absence of manifest abuse of such discretion.

Source: § 176, Ch. 135, 1907.
Attachment of territory; district organization. *Viland v. Board*, 37 S. D. 412, 158 N. W. 906; s. c., 38 S. D. 440, 161 N. W. 810.

Attachment of territory held fraudulent and void and as having been improperly made. *Pierre, Ft. P. & B. H. Ry. Co. v. Stuart*, 40 S. D. —, 168 N. W. 33.

§ 7537. Name, General Powers. The name of each independent district shall be Independent District of _____, inserting the name of the city or town located therein. It shall possess the usual powers of corporations for school purposes, may have a seal, may sue and be sued, contract and be contracted with, acquire and hold land for school sites, not exceeding two acres chosen by the board of education at a regular meeting of such board, and in case the owner or owners of the land, or any part thereof, shall refuse or neglect to grant such land to the district, the district shall have power to take such land in the manner provided by law for the taking of private property for public use; it shall have power to hold and convey such personal or real property as it may at any time possess, and all actions brought by or against such corporation shall be in the name of the corporation.

Source: § 177, Ch. 135, 1907; Ch. 172.

§ 7538. Shall Maintain School Not Less Than Six nor More Than Ten Months. Each independent school district shall maintain a system of free common schools, which shall be kept open not less than six nor more than ten months in any one year and shall be free to all children of legal school age residing within such corporation.

Source: § 178, Ch. 135, 1907.

ARTICLE 2.
BOARDS OF EDUCATION

7539.	Members, Election, Term.		Boards.
7540.	Vacancy.	§ 7548.	Written Contract, Bids.
7541.	Qualification.	§ 7549.	Superintendent, Appointment,
7542.	Regular Meetings of Board.		Term, Examining Committee.
7543.	Annual Meetings.	§ 7550.	Teachers in Districts of Ten
7544.	Special Meetings.		Thousand or More Popula-
7545.	Quorum.		tion.
7546.	Powers Common to All	§ 7551.	Teachers in Independent Dis-
	Boards.		tricts Having Less Than
§ 7547.	Additional Powers of Certain		Ten Thousand Population.

§ 7539. **Members, Election, Term.** In all independent school districts there shall be a board of education consisting of five members, elected at large, whose term of office shall be three years. Two members shall be elected every year except in years divisible by three, when one member shall be elected; provided, that no member of any city council or board of trustees shall be a member of such board.

Source: § 179, Ch. 135, 1907.

§ 7540. **Vacancy.** Any vacancy on the board shall be filled by the board until the next annual school election, when a successor shall be elected for the entire or unexpired term, as the case may be.

Source: § 182, Ch. 135, 1907.

§ 7541. **Qualification.** Each member of the board of education and officer provided for in this article shall take and subscribe an oath or affirmation to support the constitution of the United States, and the state of South Dakota, and faithfully to perform the duties of his office.

Source: § 184, Ch. 135, 1907.

§ 7542. **Regular Meetings of Board.** The regular meetings of the board of education shall be upon the last Friday of each month, but may in the discretion of the board be on the second Friday.

Source: § 186, Ch. 135, 1907.

§ 7543. **Annual Meetings.** The board of education, at its first regular meeting in July of each year following the annual election, shall organize by the election of a president and vice president, each of whom shall serve for a term of one year; and at its regular meeting in July each year it shall also elect a clerk, not a member of the board, who shall receive such compensation for his services as the board may allow; the members of the board of education shall receive no compensation: Provided, that in districts newly organized under this article, the board shall, within thirty days after its election, proceed to organize and elect officers as aforesaid, who shall serve until the time of the next regular annual meeting.

Source: § 183, Ch. 135, 1907.

§ 7544. **Special Meetings.** Special meetings may be held upon call of the president or in his absence by the vice president, notice of which shall be given by the clerk to the members in the district, either orally or in writing, in sufficient time to permit their presence.

§ 7545. **Quorum.** A majority of the board shall constitute a quorum but any expenditure of money or contract therefor must have the assent of a majority of the members-elect.

§ 7546. **Powers Common to All Boards.** Such board of education shall have power:

1. To organize and maintain a system of graded schools, to establish a high school whenever in its opinion the interests of the school corpora-

tion demand the same, and to exercise control over the schools and school corporation.

2. To levy an annual tax on all taxable property within the district for the support of the schools of the corporation for the fiscal year next ensuing, not exceeding the amount limited by law.

3. To borrow money by issuing bonds as hereafter provided.

Source: §§ 190, 191, Ch. 135, 1907; Education, 34 S. D. 169, 147 N. W. 779, Ch. 217, 1917. L. R. A. 1915A, 632, Ann. Cas. 1917A, 760.
Powers of board to require physical examination. *Streich v. Board of Ed-*

§ 7547. Additional Powers of Certain Board. The board of education of any district, having a city located within its boundaries, shall have the following powers in addition to those conferred by the preceding section:

1. To erect such school houses and other structures, fences or other inclosure as the board shall deem necessary; to provide for the proper maintenance and preservation of the same, and to equip and maintain play grounds and athletic parks or grounds.

2. To permit the use of athletic parks and grounds belonging to the school district for such athletic exhibitions and games, other than those of the public schools, as the board may determine will not conflict or interfere with the proper use of such parks and grounds for school purposes, for such compensation as shall be fixed by the board, which compensation shall be paid and placed in the general fund of the school district.

3. To employ clerk, superintendents, principals, teachers, janitors, caretakers, attorneys and all other assistants deemed necessary by the board, and to define the duties and fix the compensation of each.

4. To establish and maintain a uniform system or course of instruction in the grades to and including the eighth, in substantial conformity to the course of study adopted for the public schools of the state.

5. To establish and maintain a high school or schools with a course or courses of study from the ninth to the twelfth grades inclusive.

6. To establish and maintain kindergarten departments.

7. To establish and maintain courses in physical training.

8. To establish and maintain courses of study and practice in vocational training.

9. To provide and maintain, for the use of superintendents, principals, teachers and pupils, an adequate system and supply of text, reference and library school books and prescribe rules and regulations governing the same.

10. To provide and maintain for the use of instructors and pupils an adequate supply of tools, implements, machinery, materials, school supplies, equipment and all other property necessary in connection with the school work.

11. To sell any real or personal property of the district which the board, by resolution, may determine is no longer necessary or suitable for school purposes. But before any real property is sold, notice of such sale shall be published in some newspaper printed in the district or, if no newspaper is printed therein, then in some newspaper printed in the county wherein the property is situated, once in each week for at least four weeks prior to the date of opening bids as hereinafter provided. Such notice shall describe the property to be sold, the terms of sale, and state the time and place when sealed bids therefor will be received, that each bid must be accompanied by a certified check for ten per cent of the amount bid, and that the board reserves the right to reject any and all bids. At the time and place stated in such notice the board shall open and consider all bids received, and either accept the highest and best bid or reject all of the bids. If bids be rejected no sale shall take place

until notice shall have been again published as above provided. If the highest and best bid be accepted, the board shall proceed to complete the contract of sale according to the terms stated in the published notice, and to convey the property in the manner provided for the transfer of real property. If the successful bidder refuses or neglects to comply with the terms of his bid and complete the contract of sale, the board shall retain the amount of his certified check as liquidated damages, and place the same in the district treasury to the credit of the general fund. All certified checks accompanying rejected bids shall be returned: Provided, that if at any time prior to the day upon which the sealed bids are opened, ten or more taxpayers of the district shall commence an action in the circuit court from which it shall appear, by a verified complaint or affidavit, that the property offered for sale is necessary and suitable for school purposes, it shall be the duty of the court to issue an order restraining the sale, and no further proceeding shall be taken by the board until ordered by the court. Such action shall be tried, after issue joined, before the court, without a jury, either in or out of term time upon ten days notice, and the decision thereof by the court shall be final and not appealable. Upon the trial the court shall determine whether such real property is any longer necessary or suitable for school purposes, and if it shall determine that it is necessary and suitable for school purpose, it shall order and direct that such property be not sold, in which event such property shall not again be offered for sale within one year from the date of such order. If the court shall determine that such property is not necessary or suitable for school purposes, the restraining order shall be dissolved and the board may proceed to complete the sale or again advertise for bids, as the circumstances may require.

Source: Ch. 225, 1917.

§ 7548. Written Contract, Bids. No expenditure involving an amount greater than one hundred dollars shall be made except in accordance with the provisions of a written contract, and no contract involving the expenditure of more than five hundred dollars for the purpose of erecting any public building or making any improvements shall be made except upon sealed proposals and to the lowest responsible bidder.

Source: § 202, Ch. 135, 1907.

§ 7549. Superintendent, Appointment, Term, Examining Committee. The board of education, in districts having two thousand or more population, shall elect a superintendent of schools, who shall in no case be a member of the board, who shall hold his office during the pleasure of the board and shall receive such compensation as the board may allow, and who, subject to the rules and regulations of the board, shall have general supervision of the schools of the corporation. Such board shall also appoint two competent persons who, with the superintendent as chairman, shall be styled the examining committee of the board.

Source: § 204, Ch. 135, 1907.

§ 7550. Teachers in Districts of Ten Thousand or More Population. Such committee, in districts having ten thousand or more population, shall have power to examine teachers for their own schools, and to issue certificates authorizing persons to teach therein, in accordance with such rules as may be adopted by the board of education, and such certificates shall be the sole license required by law to teach in such schools. The examination papers and certified copies of credentials upon which these certificates are issued shall be kept on file in the office of the clerk of the board of education.

Source: § 204, Ch. 135, 1907.

§ 7551. Teachers in Independent Districts Having Less Than Ten Thousand Population. In all independent districts having less than ten

thousand population, no superintendent or principal shall be employed who does not hold a South Dakota life diploma, state or first grade certificate, and no teacher shall be employed who does not hold a valid South Dakota certificate for the grade or special subject taught; and any contract made in conflict herewith shall be void; Provided, that nothing herein shall be so construed as to prevent the board of education in any such district from imposing such additional tests as to the qualification of teachers as it may deem expedient.

Source: § 204, Ch. 135, 1907.

ARTICLE 3. ELECTIONS

§ 7552. Time, Notice.	§ 7557. Publication of Nominations.
7553. Qualified Electors.	7558. Ballots.
7554. Nominations.	7559. Conduct of Elections.
7555. No Party Designation.	7560. Returns of Election.
§ 7556. Withdrawal of Nominations.	§ 7561. Canvass of Returns.

§ 7552. **Time, Notice.** The annual school election in all independent districts shall be held on the third Tuesday of June, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day and no longer. Not less than ten days before such election, the clerk of the board shall cause notices to be posted in public places distributed throughout the district, and shall state therein the officers to be elected, with terms of each, and questions, if any, to be submitted at such election. Such notices shall also be published in some newspaper at least three times, beginning not less than ten days prior to such election. At such election there shall be elected members of the board of education as provided by law, and in the year 1920 and every three years thereafter a treasurer of the district shall be elected for a term of three years.

Source: § 180, Ch. 135, 1907; § 1, Ch. 45, 1909; § 1, Ch. 133, 1911.

§ 7553. **Qualified Electors.** Any person qualified under the constitution, resident of the county ninety days and of the district thirty days, shall be entitled to vote at such election; provided, that when the district lies in two or more counties, any such elector shall be entitled to vote at such election if a resident for ninety days of any portion of such district, though not a resident of the county in which such election is held.

Source: § 81, Ch. 135, 1907; Ch. 141, 1907.

§ 7554. **Nominations.** Candidates for school offices shall be nominated by filing with the clerk of the board of education, not earlier than the fifteenth day of May nor later than the first day of June certificates of nomination for the offices to be filled. Such certificates shall be in writing, shall contain the name of the candidate, his residence, business address and the office for which he is named, and must be signed by twenty or more qualified electors of the school district. Each elector signing a certificate of nomination shall add to his signature his place of residence, his business and his postoffice address, and shall declare that he has not joined in nominating any other person for the office to be filled. Such signatures need not all be appended to one paper. No certificate of nomination shall contain the name of more than one candidate for any office to be filled, but each elector may sign as many certificates as there are officers to be elected for a particular term of office.

Source: § 2, Ch. 133, 1911.

§ 7555. **No Party Designation.** In order to separate party politics so far as possible from school affairs, no descriptive word, phrase or symbol to designate the party or principle of any nominee shall appear on the certificate of nomination, or be used or printed on the ballot.

Source: § 3, Ch. 133, 1911.

§ 7556. **Withdrawal of Nominations.** Any person whose name has been filed as a candidate may cause his name to be withdrawn from nomination, by request in writing signed by himself and properly acknowledged and filed with the clerk of the board at least five days prior to the day of election; and no name so withdrawn shall be printed on the ballots to be used.

Source: § 4, Ch. 133, 1911.

§ 7557. **Publication of Nominations.** The clerk of the board shall cause to be published in one or more newspapers, published in the county, at least four days before the day of election, all nominations certified to him under the provisions of this article.

Source: § 5, Ch. 133, 1911.

§ 7558. **Ballots.** The clerk of the board shall provide proper ballots similar in form to those authorized by law for municipal elections, except as to party affiliation, on which shall be printed the names of the candidates for the respective offices, each being given a position for each office in the order of the priority of the filing of their nominating certificates. The clerk shall provide the voting booths required by law in each polling place and such supplies, poll books and stationery as may be necessary.

Source: § 6, Ch. 133, 1911.

§ 7559. **Conduct of Elections.** In independent districts not embracing any city, the board of education shall act as judges and clerk of election and shall provide a polling place for each one hundred and fifty voters within the district. In any district having a city within its boundaries, the board of education shall fix a polling place in each ward thereof, and shall appoint by resolution two judges and one clerk in each of such wards; provided, that if only one candidate is nominated for each office to be filled, and no question is to be submitted to the electors, the board may designate a less number of voting places. Such election shall be conducted in accordance with the general election laws of this state, so far as applicable and not inconsistent with the provisions of this article. The compensation of the judges and clerk of election appointed by the board of education shall be fixed by the board and paid from the district treasury.

Source: § 7, Ch. 133, 1911; Ch. 211, 1917.

§ 7560. **Returns of Election.** The returns from such election shall be certified by the officers in each polling place, and the ballots, properly sealed in ballot boxes, together with the poll books, shall be placed forthwith in the custody of the clerk of the board, who shall keep such boxes inviolate for at least thirty days after the canvass of the returns.

Source: § 8, Ch. 133, 1911.

§ 7561. **Canvass of Returns.** The results of such election shall be canvassed and declared by the board of education at the next regular meeting thereof, and certificates of election shall be issued by the clerk of the board to the successful candidates.

Source: § 9, Ch. 133, 1911.

ARTICLE 4.
OFFICERS

- § 7562. President and Clerk, Duties. § 7565. Bond of Treasurer and Clerk.
§ 7563. Report of Clerk. § 7566. Report of Treasurer.
§ 7564. Vacancy.

§ 7562. **President and Clerk, Duties.** It shall be the duty of the president of the board to appoint all committees and to countersign all warrants drawn upon the treasury for school moneys. It shall be the duty of the clerk to be present at all meeting of the board, keep an accurate journal of its proceedings, take charge of its books and documents, sign all warrants for school money, and perform such other duties as the board may require.

Source: § 187, Ch. 135, 1907.

§ 7563. **Report of Clerk.** The clerk of the board of education at the close of each school year shall make an annual report of the condition, financial as well as educational, of all the schools of the corporation, a copy of which shall be sent to the county superintendent. Such report or such portion of it as the board of education shall consider advantageous to the public shall be printed in a newspaper or in pamphlet form.

Source: § 188, Ch. 135, 1907.

(H. B. 210)

RELATING TO PUBLICATION OF CITY AND INDEPENDENT SCHOOL
DISTRICT PROCEEDINGS.

§ 1. It shall be the duty of the city council or city commission of each city of this state, and it shall be the duty of the board of education of each independent school district in this state, to cause to be published in their official newspaper, or in the event no official newspaper has been designated, in any legal newspaper published within such city or district, within thirty days after each meeting of such council, commission or board, a full account of the proceedings at such meeting giving a detailed statement of all expenditures of money, giving the names of the persons to whom payment is made and showing the service rendered therefor. The publisher of such proceedings shall receive pay for publishing such proceedings at the rate of twenty-five cents per column inch of standard column width, type used not to be larger than 10 point set solid.

Source: Ch. 252, S. L. 1919.

§ 7564. **Vacancy.** Any vacancy in the office of treasurer shall be filled by the board of education by appointment. Such appointee shall not be a member of such board.

Source: § 182, Ch. 135, 1907.

§ 7565. **Bond of Treasurer and Clerk.** Before entering upon the discharge of his duties, the clerk of the board of education shall give a bond in a sum to be fixed by the board, not less than five hundred dollars, with good and sufficient sureties, to be approved by the board, conditioned for the faithful discharge of his duties as clerk. The treasurer shall execute a bond in such sum as the board may require, with sufficient sureties to be approved by the board, conditioned for the faithful discharge of his duties as treasurer of such district. The oath and bond of the clerk shall be filed with the treasurer. All other official oaths and

bonds shall be filed with the clerk, except the bond of the treasurer, which shall be recorded at length by the clerk, and by him filed in the office of the county auditor of the county wherein such independent school district is situated.

Source: § 185, Ch. 135, 1907; Ch. 186, 1913.

§ 7566. **Report of Treasurer.** The treasurer shall prepare and submit in writing a monthly report of the state of the finances of the corporation, and shall, when required, produce at any meeting of the board all books and papers pertaining to his office. He shall pay money only upon a warrant signed by the president, or in his absence the vice-president, and countersigned by the clerk.

Source: § 189, Ch. 135, 1907.

ARTICLE 5. FINANCE AND TAXATION

§ 7567. Tax Levy.

§ 7568. Error Corrected.

§ 7567. **Tax Levy.** The board of education shall, on or before the fifteenth day of August of each year, levy a tax for the support of the schools of the corporation for the fiscal year next ensuing, not exceeding in any one year fifteen and one-half mills on the dollar of the assessed valuation of all taxable property within the district and which levy the clerk of the board shall certify to the county auditor, who is authorized and required to place the same on the tax roll of the county, to be collected by the county treasurer as the taxes of the county, and paid over by him to the treasurer of the school district, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall transmit to the clerk of the board of education. And such receipt shall show the proportionate amounts belonging to the several funds of the board of such school district, apportioned by the treasurer thereof according to the relative amounts levied by such board for the current year.

Source: § 191, Ch. 135, 1907; § 6, Ch. 292, 1915.

§ 7568. **Error Corrected.** Whenever an error occurs in any school corporation or district tax list, the board of county commissioners may correct such error and refund any school tax improperly collected, in the same manner as in the case of county taxes.

CHAPTER 5 CONSOLIDATED DISTRICT

§ 7569. Purpose of Consolidation.	§ 7573. Plans, Sites and Courses of Study.
§ 7570. Subject to Approval of Superintendent of Public Instruction.	§ 7574. Transportation of Pupils.
§ 7571. Proceedings to Perfect Consolidation.	§ 7575. Title of Property.
§ 7572. Bonded Indebtedness.	§ 7576. Name.
	§ 7577. Power to Purchase Land.

§ 7569. It shall be lawful for two or more school districts of any kind to consolidate, either by the formation of a new district or by annexation of one or more districts to an existing district in which is maintained a graded school or high school authorized by law. An existing district of any kind may organize as a consolidated district; a portion of

any existing district may organize as a consolidated district, or may consolidate with any one or more existing districts or with part or parts of same by the formation of a new district. For the purpose of improving the school system of this state and encouraging industrial training, including the elements of agriculture, manual training and home economics, a centralized system of schools shall be established and maintained in every consolidated school district organized under the provisions of this chapter.

Source: Ch. 170, S. L. 1919.

§ 7570. Subject to Approval of Superintendent of Public Instruction. Before any steps are taken in organizing a consolidated school district, the superintendent of the county in which the major portion of the territory is situated, from which it is proposed to form such district, shall cause a plat to be made showing the size and boundaries of the new district, the location of the school houses in the several districts, the location of transportation routes, together with such other information as may be essential and submit the same to the superintendent of public instruction, who shall approve, modify or reject the plan so proposed and certify his conclusions to the county superintendent of schools.

Source: § 2, Ch. 194, 1913. by state superintendent was invalid.
Petition for consolidated school dis- State ex rel. Mort v. Tralstead, 36 S.
trict signed before approval of plans D. 568, 156 N. W. 75.

§ 7571. Proceedings to Perfect Consolidation. After approval by the superintendent of public instruction of the plan for the formation of a consolidated school district, and upon presentation to the county superintendent of a petition signed by at least twenty-five per cent of the electors of each district affected, qualified to vote at school meetings, the genuineness of whose signature shall be verified by the affidavit of the person who circulates such petition, asking for the formation of a consolidated school district in accordance with the plan approved by the superintendent of public instruction, the county superintendent shall within ten days, cause ten days posted notice to be given in each district affected and one week's published notice, if there be a newspaper in such district, of an election or special meeting to be held within the proposed district at a time and place specified in such notice, upon the question of consolidation. At such meeting, the electors, not less than twenty being present, shall elect from their number a chairman and clerk who shall be the officers of the meeting. The chairman shall appoint two tellers and the meeting or election shall be conducted as are regular annual school meetings. The vote at such election or meeting shall be by ballot, which shall read "For consolidation" or "Against consolidation." The officers of such meeting or election shall within ten days certify the result of the vote to the superintendent of the county in which such district mainly lies. If three-fifths or more of the votes cast are for consolidation, the county superintendent within ten days thereafter shall make a proper order to give effect to such vote and shall thereafter transmit a copy thereof to the auditor of each county in which any portion of each district affected lies, to the clerk of each district affected, and to the superintendent of public instruction. If the order be for the formation of a new district it shall specify the number of such district. The county superintendent shall also cause ten days posted notice and one week's published notice, if there be a newspaper published in such district, to be given of a meeting to elect five members of the board of education and a treasurer of the newly formed consolidated school district; and such consolidated district shall, upon its formation, become an independent district with the powers and duties of, and be governed by the laws relating to independent districts.

Source: § 3, Ch. 194, 1913; Ch. 164, and not subject to review on writ of
1915; Ch. 218, 1917. prohibition. State ex rel. Isaacson v.
Act of superintendent is ministerial Parker, 40 S. D. —, 166 N. W. 309.

§ 7572. Bonded Indebtedness. Nothing in this article shall be construed to transfer the liabilities of existing bonded indebtedness from the district or territory against which it was originally incurred. The officers of the districts or several districts forming a consolidated school district shall, immediately after the election and qualification of the members of the board of education of the consolidated school district, turn over to the proper officers thereof all records, funds, credits and effects of their several districts.

Source: § 4, Ch. 194, 1913.

§ 7573. Plans, Sites and Courses of Study. It shall be the duty of the superintendent of public instruction, with respect to schools in consolidated districts, to approve plans and sites of buildings and their equipment and the equipment of the premises; to prepare suggestive courses of study, including an industrial course; and through such supervisor as he may appoint, and in connection with the county superintendent, exercise supervision over such consolidated school.

Source: § 5, Ch. 194, 1913.

§ 7574. Transportation of Pupils. The board of education of a consolidated school district is authorized to provide for the transportation of pupils and it shall be the duty of the board to provide and maintain means of transportation for all such pupils as live a greater distance than two miles from the school. Such transportation, whether provided by the board or by parents under an arrangement with the board, shall be in a comfortable and safe conveyance, the driver of which shall use every care for the safety of the children under his charge, and shall maintain discipline therein. In lieu of providing transportation, the board may make arrangements with the parent, guardian or other person to transport such children as may live more than two miles from the school, providing that such parent, guardian or other person shall provide for the transportation of the children a comfortable and convenient conveyance, well supplied with protection against inclement weather, and shall actually transport or provide for the transportation of such children to the school for at least seven months of each school year. In cases where it is practicable, conveyance by interurban, steam railway or automobile shall be equivalent to transportation by team: Provided, that the board of education shall have authority under this section to designate and establish routes for the transportation of children and to designate points within convenient and easy access to the several homes of the children entitled to transportation where the conveyance shall stop and take such children on in the morning and put them off in the evening, but no such point designated as a place to take on any child entitled to transportation shall be more than five-eighths of a mile from the home of such child; provided, further, that the board may, in lieu of providing for transportation, expend a reasonable amount for room and board of pupils whose attendance at such school can more economically and satisfactorily be provided for by such means.

Source: § 6, Ch. 194, 1913.

§ 7575. Title of Property. In case of the formation of a consolidated district comprising territory previously not included in any school district, like proceedings shall be had, within ten days after the organization of such consolidated district, and in all cases of change of boundary or consolidation of districts, the title to the school house sites and other school property shall vest in the district in which such property is included after such change or consolidation; and in case of consolidation, the officers of the old districts shall continue to exercise their duties until the officers of the new district qualify.

Source: § 7, Ch. 194, 1913.

§ 7576. Name. The name of any consolidated school district organized under the preceding sections shall be "..... Independent Consolidated District Number of County, South Dakota," inserting in the first blank a distinctive name when desired by the electors of such district.

Source: § 8, Ch. 194, 1913.

§ 7577. Power to Purchase Land. Authority is expressly given to the school board of each consolidated school district to purchase any land which may be necessary for school house sites and to provide the demonstration plat necessary to meet the requirements of the law governing such district and the same shall be and become the property of such district forever; provided, that in case it is necessary to expend more than two hundred dollars for the purchase of additional lands, the question of purchasing such lands shall be first submitted to a vote of the voters of such district, and if a majority of the voters voting at any regular meeting of such district, or at any special meeting of such district called according to law for that purpose, shall vote in favor of buying the additional land, the board shall at once proceed to purchase the same; provided, also, that whenever the land so selected is common school or endowment lands, it shall be lawful for the governor and commissioner of school and public lands to convey title thereto in the manner now provided by law for conveying title to school house sites, in tracts of from two to ten acres inclusive.

Source: § 8, Ch. 194, 1913; Ch. 176, 1915.

(S. B. 94.)

RELATING TO ABANDONMENT OF CONSOLIDATED SCHOOL DISTRICTS.

§ 1. That in all school districts in which an election has been held for the purpose of forming a "Consolidated School District" and in which no building or buildings have been erected or purchased and in which no bonds have been issued since the Consolidation of said District, an election may be called and held, as hereinafter provided, after the expiration of two years from the Consolidation of such district or districts, for the purpose of determining whether the Consolidation of such district or districts shall be abandoned, and said district or district re-organized as common school districts.

§ 2. Upon presentation to the County Superintendent of a petition signed by at least forty (40) per cent of the electors of any such Consolidated School District, qualified to vote at school meetings, the genuineness of signatures shall be verified by the affidavit of the person who circulated such petition, asking for the abandonment of such Consolidated District, the County Superintendent shall within ten (10) days cause ten days posted notice to be given in said Consolidated School District of an election to be held upon the question of the abandonment of the consolidation of said district, at a time and place so specified in such notice. At such election, the electors, not less than fifty (50) per cent being present, shall elect from their number a Chairman and Clerk who shall be the officers of the meeting. The Chairman shall appoint two tellers and the meeting or election shall be conducted as are the regular annual school meetings. The vote of such election or meeting shall be by ballot which shall read "For Abandonment of Consolidation" or "Against Abandonment of Consolidation." The officers of such meeting or election shall within ten (10) days certify the results of the vote to the County Superintendent. If seventy-five (75) per cent

of the votes are for the abandonment of consolidation, the County Superintendent shall immediately make proper orders to give effect to such vote and shall transmit a copy thereof to the auditor of the County and to the Clerk of the said district affected, and also to the Superintendent of Public Instruction. The County Superintendent shall also immediately cause ten (10) days posted notice in the territory included in said abandoned consolidated school district to be given of a meeting to be held for the purpose of electing a Chairman, Clerk and Treasurer therein which territory shall thereafter be and remain a school district and be governed by the General Laws of the State of South Dakota applying to common school districts until changed or divided by the provisions of law applying thereto.

§ 3. All properties acquired by the Consolidated School Districts seeking to be dissolved under this act and where such Consolidated District has been dissolved shall be redistributed by the County Superintendent to the school districts which are created from the dissolved consolidated school district in the same ratio as such property was acquired.

Source: Ch. 171, S. L. 1919.

CHAPTER 6.
TOWNSHIP HIGH SCHOOLS

Article 1. Organization.
Article 2. Government.

ARTICLE 1.
ORGANIZATION

- | | |
|--------------------------------------------|----------------------------------------------------|
| § 7578. Election Called. | § 7582. Union of Townships. |
| § 7579. Ballots and Elections. | § 7583. Discontinuance. |
| § 7580. Township Board of Educa-
tions. | § 7584. Elections and Ballots—Dis-
continuance. |
| § 7581. Board Establish School. | |

§ 7578. **Election Called.** Upon the petition of not less than twenty-five electors of any civil township, filed with the township clerk at least fifteen days preceding the regular election of township supervisors, it shall be the duty of such clerk to notify the voters of such township that an election for or against a township high school will be held at the next regular election of township supervisors by posting notices of such election in three public places throughout such township for at least ten days before the election, which notices may be in the following form:

HIGH SCHOOL ELECTION

Notice is hereby given that on Tuesday, the day of March, 19....., an election will be held at for the purpose of voting for or against the proposition to establish a township high school, for the benefit of township No. range No. The polls for such election will open at and close at o'clock on said day.

.....
Township Clerk.

Source: § 213, Ch. 135, 1907; Ch. 220, 1917.

§ 7579. **Ballots and Elections.** The ballots for such election shall be received and canvassed as in other township elections.

Source: § 214, Ch. 135, 1907.

§ 7580. Township Board of Education. If a majority of the voters at such election shall favor establishing a township high school, it shall be the duty of the supervisors to call a special election, on any Tuesday within sixty days thereafter, for the purpose of electing a township board of education to consist of one director, one clerk, one treasurer; notice of which election shall be given for the same time and in the same manner as provided for the election of township supervisors. The members elected shall determine by lot at their first meeting the length of term each is to serve. One shall serve for one year, one for two years, and one for three years, from the second Tuesday of July next succeeding their election. Successors shall be elected at the same time and place as the regular township elections are held. Whenever a vacancy occurs the county superintendent shall appoint a member who shall serve until a successor is elected and qualified. Within thirty days after the election, the members-elect of the township board of education shall qualify by taking the constitutional oath and giving a bond to the high school township; the director in the sum of one hundred dollars, the clerk in the sum of two hundred dollars, and the treasurer in such sum as may be fixed by the clerk and director, but not less than double the sum of the money, as nearly as can be ascertained, to come into his hands in any one year. The bonds of the clerk and director shall be signed by at least one surety, and that of the treasurer shall have at least two sureties. The bond of each officer shall be approved by the other two members of the board, and shall be conditioned that he will faithfully perform his duties and account for any money or property of such high school township that may come into his hands or care. The oaths and bonds of the members of the first board shall be approved by the township clerk. All bonds of the board of education shall be filed with the auditor of the county wherein such high school township is organized. Failure to qualify within thirty days shall ipso facto create a vacancy.

Source: § 215, Ch. 135, 1907.

§ 7581. Board Establish School. It shall be the duty of the township board of education to establish at some central point most convenient to a majority of the pupils of the township a high school for the education of the more advanced pupils. It shall have charge, direction and management of the high school of the township, and the care, custody and control of all the property belonging to it. It shall assist and cooperate with the teacher or teachers in the government and discipline of the school and may make proper rules and regulations therefor. It may suspend or expel from school any person insubordinate or habitually disobedient; provided, that such suspension shall not be for a shorter period than ten days, nor beyond the end of the current term of school.

Source: § 216, Ch. 135, 1907.

§ 7582. Union of Townships. In like manner the voters and supervisors of two or more adjoining townships may cooperate in the establishment and maintenance of a high school upon such terms as may be agreed upon in writing by the respective boards of supervisors.

Source: § 217, Ch. 135, 1907.

§ 7583. Discontinuance. When any township or townships shall have organized a high school and wish to discontinue the same, upon petition of not less than a majority of the legal voters of such township or townships, filed with the township clerk or clerks, at least fifteen days preceding the regular election of supervisors, it shall be the duty of such clerk or clerks to notify the voters of such township or townships that an election will be held on the day of the regular election of supervisors for the purpose of voting for or against discontinuing the township high school which notice shall be given in the same manner, for the same length of

time, and may be in substantially the same form as the notice hereinbefore provided.

Source: § 218, Ch. 135, 1907.

§ 7584. **Elections and Ballots—Discontinuance.** The ballots for such election shall be received and canvassed in the same manner as hereinbefore provided. If a majority of the votes cast at such election shall be in favor of discontinuing the high school, it shall be the duty of the board of education to discontinue the same, and turn all the assets of such high school into money and deposit the same in the county treasury to the credit of the school funds of the various districts or parts of districts embraced within such high school township or townships, in proportion to the assessed valuation of such districts or parts of districts, to be used for general school purposes.

Source: § 219, Ch. 135, 1907.

ARTICLE 2. GOVERNMENT

§ 7585. Meetings of Board.
§ 7586. Tax Levy.

§ 7587. Corporate Name and Powers.
§ 7588. Salary.

§ 7585. **Meeting of Board.** The regular meetings of the board of education for the transaction of business shall be on the second Tuesday of July, the last Tuesday of November and the last Tuesday of March, at such hour and place as may be fixed by the board of education; provided, that the clerk of the board shall, when requested by a majority of the board, call a special meeting at any time, by giving written notice to each member of the board at least three days prior to the meeting.

Source: § 220, Ch. 135, 1907.

§ 7586. **Tax Levy.** The board of education shall have power to levy upon the property of the township a tax for high school purposes of not exceeding ten mills on the dollar in any one year, which levy shall be made by resolution of the board at its regular July meeting. The clerk shall immediately thereafter notify the county auditor, in writing, of the tax so levied. The board of education shall have power and may direct the removal of the school house to a more convenient location upon the petition of two-thirds of the electors of the entire school township.

Source: § 221, Ch. 135, 1907.

§ 7587. **Corporate Name and Powers.** Every civil township, organized for the purpose of establishing a township high school under this chapter shall be a corporation for high school purposes under the name of the civil township, the territory of which it comprises, and may under its name sue and be sued, contract and be contracted with, purchase, hold and use personal and real property for the purposes mentioned in this chapter.

Source: § 222, Ch. 135, 1907.

§ 7588. **Salary.** Each member of the board of education, provided for in this chapter, shall receive a salary of one dollar and fifty cents for each day actually and necessarily spent in the discharge of his official duties, provided, such salary shall not exceed twenty-five dollars in any one year.

Source: § 224, Ch. 135, 1907.

CHAPTER 7.
SCHOOL CENSUS

§ 7589. Duty of Clerk.

§ 7590. Duty of County Superintendent.

§ 7591. Duty of Commissioner of School and Public Lands.

§ 7589. **Duty of Clerk.** It shall be the duty of the clerk of the school district board or clerk of the board of education, or some person employed by him, in each school district, on or before the first Monday in June of each year to take the census of all children under twenty-one and over six years of age, residing in the district. In all cases where the clerk employs another person to take the school census, before entering upon such duty such person shall take and subscribe an oath to perform faithfully the duties of census enumerator of such school district to the best of his ability and that he will, by a house to house visitation or by conference with a member of each family, enter in such census the names of all children of legal school age, as herein defined, and none other, and such oath he shall file with the county superintendent of schools. The census shall show the age of the child on May first, the name of the parent or guardian of each, and shall be filed with the county superintendent on or before the first Monday in June. The clerk shall also place one copy of such census in the register of each school in the district. In taking the census the clerk, either by a house to house visitation or by conference with a member of each family, shall determine positively the data regarding all children entitled to be enrolled on the census as herein defined. If any clerk or person employed by him shall wilfully enter and return in such census the name of any child not lawfully entitled to enrollment on account of either age or residence, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars. For the labor incurred in taking the census, the clerk or person employed by him shall be entitled to receive such remuneration as shall be fixed by the district board, which shall be paid from the district treasury. No clerk or person employed by him shall receive pay for taking the census until such report shall have been approved by the county superintendent and the chairman of the district board notified by the county superintendent: Provided, that the remuneration so received shall not be counted as salary.

Source: § 99, Ch. 135, 1907.

§ 7590. **Duty of County Superintendent.** It shall be the duty of the county superintendent of schools to receive such census from each school district clerk in his county, and to inspect carefully the same, and by comparison with the previous census of such district and other means verify its accuracy, and if on examination and comparison he find such census to be inaccurate, insufficient, or including names not properly enrolled in the school district, it shall be his duty to cause a new census of such school district to be made, and the expense thereof shall be charged to and paid by the district so making the insufficient, false or fraudulent return, in which case the first census enumerator shall be entitled to no remuneration.

Source: § 100, Ch. 135, 1907.

§ 7591. **Duty of Commissioner of School and Public Lands.** On or before the first day of July in each year, each county superintendent shall report under oath to the commissioner of school and public lands the enumeration of persons of school age in each school district in his county according to the census of school districts as hereinbefore provided. Upon receipt of such report it shall be the duty of the commissioner of school and public lands to inspect carefully each report so received and, by com-

parison or otherwise, to satisfy himself of the accuracy thereof, and if, by such inspection, comparison or other means he shall become satisfied that the census of any school district as reported is insufficient, false or fraudulent, it shall be his duty to provide for a re-enumeration of such school district, and the expense of such re-enumeration shall be paid by the school district so re-enumerated. And upon the census of all the school children secured, as hereinbefore provided, he shall apportion the school funds as provided by law.

Source: § 101, Ch. 135, 1907.

CHAPTER 8. SCHOOL BONDS

- Article 1. In Common School Districts.
Article 2. In Independent Districts.
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ARTICLE 1. IN COMMON SCHOOL DISTRICTS

§ 7592. Bonds May be Issued.	§ 7597. Sale of Bonds.
§ 7593. Election.	§ 7598. Auditor May Levy Tax
§ 7594. Denomination of Bonds.	§ 7599. Cancellation.
§ 7595. Form—County Auditor's Certificate.	§ 7600. Contracts for Buildings.
§ 7596. Bond Tax Levy.	§ 7601. Certificate to County Auditor.

§ 7592. **Bonds May Be Issued.** Whenever the qualified electors of a common school district shall, at any regular or special meeting held for that purpose, vote to issue bonds for the purpose of building and furnishing a school house, purchasing grounds on which to locate the same, or to fund an outstanding indebtedness, the school district board may lawfully issue such bonds in accordance with the provisions of this article: Provided, however, that the question of issuing bonds shall not be submitted to a vote of the district and no meeting shall be called for that purpose until the school district board shall have been petitioned in writing by one-third of the voters resident in such school district.

Source: § 151, Ch. 135, 1907.

§ 7593. **Election.** Before the question of issuing bonds shall be submitted to a vote of the school district, notices shall be posted in at least three public places in such district stating the time and place of meeting, the amount of bonds proposed to be issued and the time at which they shall be made payable. Such notices shall be posted not less than twenty days before the meeting, and the voting shall be done by means of written or printed ballots. All ballots deposited in favor of issuing the bonds shall have thereon the words "For issuing bonds," and those opposed thereto shall have thereon the words "Against issuing bonds"; and if a majority of all the votes cast shall be in favor of issuing bonds, the school board through its proper officers shall forthwith proceed to issue bonds in accordance with the vote; but if a majority of all the votes cast shall be against issuing bonds, then no further action can be had, and the question shall not be again submitted to a vote for one year thereafter, except for a different amount.

Source: § 152, Ch. 135, 1907.

§ 7594. **Denomination of Bonds.** The denomination of the bonds which may be issued under the provisions of this article shall be fifty

dollars or some multiple of fifty, not exceeding five hundred dollars, and shall bear interest at the rate of not exceeding seven per cent per annum, payable semi-annually in accordance with interest coupons which shall be attached to the bonds; and such bonds shall be made payable in annual, biennial or triennial succession, but no bond shall be made payable in less than five nor more than twenty years; Provided, that in no case shall the amount exceed five per cent upon the assessed valuation of the taxable property within the district, as fixed by the tax commission, for the year preceding the issue of such bonds.

Source: Ch. 177, S. L. 1919.

§ 7595. **Form—County Auditor's Certificate.** Whenever any bonds are issued under the provisions of this article, they shall be lithographed or printed on good bond paper and shall state upon their face the date of their issue, the amount of the bond, to whom and for what purpose issued, also the time and place of payment, and rate of interest to be paid. They shall have printed upon the margin the words, "Authorized by the South Dakota Revised Code of 1919." and upon the back of the bonds a certificate signed by the county auditor in substantially the following form:

"I certify that the within bond is issued in accordance with law, and is within the debt limits prescribed by the constitution of the state of South Dakota, and in accordance with a vote of school district at a regular (or special) meeting on the day of 19..... to issue bonds to the amount of dollars." Such bond shall be signed by the chairman and clerk of the school board and shall be registered and numbered in a book to be kept by the clerk for that purpose, in which shall be entered the number, date, name of person to whom issued, and the dates when the same shall become due.

Source: § 154, Ch. 135, 1907.

§ 7596. **Bond Tax Levy.** In any school district having outstanding bonds, which has not provided for an interest and sinking fund, the school board shall have the power at the time the school taxes are levied to levy a tax, in addition to other taxes, sufficient to pay the interest on such outstanding bonds as the same may become due and not to exceed twenty per cent of the principal as a sinking fund. Such tax shall be certified to the county auditor by the school clerk at the same time that he levies for other purposes are certified. The money obtained from the levies for the interest and sinking fund shall not be used for any other purpose than that for which the levies are made; Provided, that when any school district shall hereafter issue bonds, the school district board shall at or before the time of so doing provide for the levy of an annual tax sufficient to pay the interest and principal thereof when due, and all such levies when legally made shall be irrevocable until such debt shall be paid; provided, further, that such levy in any year shall not be greater than twenty per cent of the debt to be paid. The school board may in its discretion purchase any of its outstanding bonds at their market value and pay for the same out of the sinking fund.

Source: Ch. 177, S. L. 1919.

§ 7597. **Sale of Bonds.** Whenever any bonds shall be issued under the provisions of this article, the school district treasurer shall have authority to negotiate and sell such bonds for not less than par, and the proceeds shall be used exclusively for the purpose of building and furnishing a school house and in payment for a site for the same and for necessary buildings.

Source: § 155, Ch. 135, 1907.

§ 7598. **Auditor May Levy Tax.** When any school board neglects or refuses to levy a tax in accordance with law to meet any outstanding

bonds or interest thereon, the county auditor shall have power to levy such tax, and, when collected, to apply the proceeds to the payment of such coupons and bonds.

Source: § 156, Ch. 135, 1907.

§ 7599. **Cancellation.** Whenever the bonds of any school district shall have been redeemed by the school board, they shall be canceled by writing or printing in red ink the words "canceled and paid" across each bond and coupon, and the date of the payment and the amount paid shall be entered in the clerk's register against the proper number of the bond and the bonds so canceled shall be filed in the office of the district treasurer until all the outstanding bonds are paid, when they shall be destroyed in the presence of the full board.

Source: § 157, Ch. 135, 1907.

§ 7600. **Contracts for Buildings.** Whenever any school house is built with funds provided in the manner herein authorized, the school board shall advertise at least thirty days in some newspaper printed in the county, or by posting notices for the same length of time in at least three of the most public places, if no newspaper is published in the county, for sealed proposals for building and furnishing such school house in accordance with plans and specifications that shall be furnished by the school board, reserving the right to reject any and all bids, and if any of the proposals shall be reasonable and satisfactory the board shall award the contract to the lowest responsible bidder, and shall require of such contractor a bond in double the amount of the contract, conditioned that he will properly account for all money and property of the school district that may come into his hands, and that he will perform the conditions of his contract in a faithful manner and in accordance with its provisions, and in case all the proposals shall be rejected such board shall advertise anew in the same manner as before and until a reasonable bid shall be submitted: Provided, however, that no member of the school district board, clerk or treasurer, shall be interested, directly or indirectly, in any contract for building or furnishing any school house provided for in this article.

Source: § 158, Ch. 135, 1907.

§ 7601. **Certificate to County Auditor.** When any school district in this state shall have voted to issue its negotiable bonds for the purposes provided by law, and before the county auditor shall certify to the bonds, as required hereinbefore, such district shall file with such auditor certified copies of the record of such school district ordering such election, and the records and poll book of such election, and unless such records show a strict compliance with law, such certificates shall not be executed.

Source: § 160, Ch. 135, 1907.

ARTICLE 2. IN INDEPENDENT DISTRICTS

§ 7602. Authorized.
§ 7603. Resolution.
§ 7604. Notice of Election.
§ 7605. Ballots.
§ 7606. Board Canvass Votes.

§ 7607. Rate of Interest, Execution.
§ 7608. Sale.
§ 7609. Limit of Issue, Sinking Fund.
§ 7610. Payment of Interest Coupons.
§ 7611. Bond Register.

§ 7602. **Authorized.** Boards of education of independent school districts are authorized and empowered to issue negotiable bonds in the manner hereinafter provided for the following purposes: 1. To refund bonds that may be outstanding. 2. To fund outstanding warrants. 3. To raise

money for the purpose of a site or sites and the erection of suitable buildings for school purposes.

Source: § 161, Ch. 135, 1907; § 1, 150 N. W. 473.

Ch. 139, 1911; Ch. 185, 1913.

Bond issues relating to schools in cities of first and second class governed by special acts. Sanders v. Independent School Dis., 35 S. D. 48,

Recital in bonds in hands of bona fide purchaser: estopped. Board of Education of City of Pierre v. McLean, 106 Fed. 817, s. c. 181 U. S. 622, 45 L.ed. 1032, 21 Sup. Ct. Rep. 925.

§ 7603. Resolution. When the board of education of any independent school district shall deem it necessary and expedient to issue bonds for any purpose authorized by the preceding section, it shall pass a resolution setting forth clearly and distinctly the object or objects for which the bonds are to be issued, the amount of the bonds, the maximum rate of interest which they are to draw and the time when they shall become due and payable. Such resolution shall distinctly specify the propositions to be submitted to the electors. Such resolution may include the issuing of bonds for one or more purposes. When such resolution shall be adopted by the board, it shall be entered at length by the clerk on the minutes, signed by the president and attested by the clerk.

Source: § 162, Ch. 135, 1907; § 1, Ch. 139.

§ 7604. Notice of Election. Notice of election for the purpose of taking the sense of the school corporation upon the question of issuing bonds shall be given by the board of education, signed by the president and clerk of such board, by publishing the same four successive weeks next prior to the date of holding such election, in a newspaper printed and published in such school district, and if no newspaper is printed and published therein, notice shall be given by posting copies of the same in three of the most public places within such school district at least thirty days prior to such election; such notice shall state the time and place of such election, the amount of bonds asked for and the purpose or purposes for which they are to be issued, the maximum rate of interest they are to draw and when they are to become due, and such election shall be conducted the same as other school elections in such school district. If a majority of the votes cast on any one of the propositions submitted at such election shall be in favor of such proposition, the bonds authorized thereby shall be issued, and any person qualified to vote at a school election in such district shall be qualified to vote on the question of issuing bonds.

Source: Ch. 178, 1915.

§ 7605. Ballots. The ballot to be used shall be white paper and shall be printed by authority of the board, and have printed upon it the propositions submitted to the electors. Such proposition or propositions so printed on the ballot shall be, as nearly as practicable, in the following form:

1. Shall the board of education be authorized to issue bonds in the sum of (naming it), payable in twenty years or less from date, at a rate of interest not exceeding.....per cent (naming rate) per annum, payable annually (or semi-annually), for the purpose of refunding the outstanding bonded indebtedness of such school corporation?

2. Shall the board of education be authorized to issue bonds in the sum of (naming it), payable in twenty years or less from date, at a rate of interest not exceeding.....per cent (naming rate) per annum, payable annually (or semi-annually), for the purpose of funding the outstanding warrants of such school corporation?

3. Shall the board of education be authorized to issue bonds in the sum of (naming it), payable in twenty years or less from date, at a rate of interest not exceeding.....per cent (naming rate) per an-

num, payable annually (or semi-annually), for the purpose of purchasing suitable sites and for the erection of suitable school buildings?

4. Shall the board of education be authorized to issue bonds in the sum of (naming it), payable in twenty years or less from date, bearing a rate of interest not exceedingper cent (naming rate) per annum, payable annually (or semi-annually), for the purpose of erecting additions to school houses?

On the ballots there shall be printed opposite each separate proposition the words "Yes" and "No," with squares or circles before them. Any elector desiring to vote for any one of such propositions shall mark a cross (X) in the square or circle opposite the word "Yes". Any elector desiring to vote against any one of such propositions shall mark a cross (X) in the square or circle opposite the word "No."

Source: § 165, Ch. 135, 1907.

§ 7606. Board Canvass Votes. After the close of the polls the respective election boards shall canvass the votes cast and certify the result to the board of education. The board of education shall meet within one week after such election and proceed to canvass the votes cast in the various wards, and the result of the canvass must be entered in the minutes of the board. If one or more of such propositions receive a majority of the votes cast thereon, the clerk must enter in his records the affidavits of publication of notice of the election.

Source: § 166, Ch. 135, 1907.

§ 7607. Rate of Interest, Execution. Such bonds shall not bear a rate of interest higher than seven per cent, payable annually or semi-annually, at such place as may be mentioned upon the face of the bonds, and shall be payable not more than twenty years from their date. Such bonds shall be signed by the president of the board of education, attested by the clerk, with the corporate seal, and countersigned by the treasurer of such board. Each bond so issued shall be for not less than fifty dollars and may be issued payable to order or bearer. The interest shall be evidenced by coupons attached to the bond. The coupons shall be signed and attested in the same manner as the bonds, but need not be countersigned by the treasurer.

Source: §§ 167, 194, Ch. 135, 1907;
Ch. 217, 1917.

§ 7608. Sale. Such bonds shall be sold to the highest bidder for not less than par, the board of education having caused at least two weeks notice to be published stating the time when and place where sealed bids for such bonds will be received; provided, that no bonds shall be issued until the question of issuing the same shall have been submitted to the electors and a majority of the qualified electors voting on the question shall have declared by their vote in favor of issuing the same.

Source: §§ 168, 194, Ch. 135, 1907.
Ch. 217, 1917.

§ 7609. Limit of Issue, Sinking Fund. No Board of Education in any independent school district, or any consolidated school district shall issue bonds in the amount, which, with the outstanding indebtedness of the district, shall exceed seven per cent of the assessed valuation of the taxable property within such district, as fixed by the tax commission for the year preceding the issuing of such bonds, except when they are for funding or refunding purposes, but the amount of such funding or refunding bonds, with the debts not funded or refunded, shall not exceed such limitation; and at or before the issuing of any bonds such board, by resolution, shall provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due. The interest and sinking fund thus provided for shall be set apart by the treasurer of such cor-

poration, and shall not be used for any other purpose. The sinking fund shall be applied to the payment of the bonds at or below par; provided, that such board may, in its discretion, pay not to exceed one year's interest in advance on any bond, together with the principal, when it deems such course advisable.

Source: Ch. 174, S. L. 1919.

§ 7610. **Payment of Interest Coupons.** Whenever the interest coupons on any bonds become due, they shall be promptly paid by the treasurer on presentation, who shall stamp them "paid," with the date of payment and his name. All bonds paid by him shall be canceled in the same manner and filed with the clerk of the board.

Source: § 170, Ch. 135, 1907.

§ 7611. **Bond Register.** It shall be the duty of the clerk and treasurer to register each bond issued in a suitable book, with the name of the purchaser and the names of subsequent holders when known. Such book shall contain columns for entering the payment of the coupons and bonds.

Source: § 172, Ch. 135, 1907.

CHAPTER 9. SCHOOL BUILDINGS

- Article 1. Plans and Use.
Article 2. Contractors' Bonds.
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ARTICLE 1. PLANS AND USE

§ 7612. Plans Approved by Superintendent of Public Instruction. § 7613. Public Meetings.
§§ 7614. Use, How Secured.

§ 7612. **Plans Approved by Superintendent of Public Instruction.** In order that due care may be exercised in the heating, lighting and ventilation of public school buildings hereafter erected, no school house shall be erected by any board of education or school district board in this state until the plans and specifications for the same, showing in detail the proper heating, lighting and ventilation of such building, shall have been approved by the superintendent of public instruction. School houses shall have in each class room at least fifteen square feet of floor space, and not less than two hundred cubic feet of air space per pupil, and shall provide for an approved system of heating and ventilation by means of which each class room shall be supplied with fresh air at the rate of not less than thirty cubic feet per minute for each pupil, and have a system of heating capable of maintaining an average temperature of seventy degrees Fahrenheit during the coldest weather.

Source: § 237, Ch. 135, 1907.

§ 7613. **Public Meetings.** Public school houses, outside of cities and towns, may hereafter be used for public meetings, including singing, literary societies, political and other meeting for moral purposes; provided, such use shall be entirely without expense to the school district having control of such school house for heat, light and care of same; and provided, further, that any person or persons or public body so using any

such school house shall be responsible to such school district for any and all damages that may be caused to such school house, fixtures or furniture by reason of such use or occupancy.

Source: § 1, Ch. 114, 1909.

§ 7614. Use, How Secured. If any person residing within the district wishes to secure the school house for any meeting or meetings, such as are enumerated in the preceding section, and makes application to the chairman of the school board or other school officers having custody of the school house, it shall be the duty of such chairman or school officer to grant permission for such meeting or meetings; provided, such meeting or meetings shall in no way interfere with the school that may be in session at the time, and that such school house has not been previously engaged for any similar meeting.

Source: § 2, Ch. 114, 1909.

ARTICLE 2. CONTRACTORS' BONDS.

§ 7615. Conditions—Actions—Intervention.

§ 7617. Failure to Secure Bond—Liability of Corporation.

§§ 7616. Rights of Subcontractors.

§ 7615. Conditions—Actions—Intervention. Whenever any contract is entered into for the construction or repair of any school building or the furnishing of any material or labor therefor, the contractor shall be required, before commencing such work, to furnish the usual penal bond, in an amount not less than the contract price, for the faithful performance of such contract, with good and sufficient sureties, with the additional obligation that such contractor shall promptly pay all persons supplying him with labor or material in the prosecution of the work provided for in such contract; and any person who has furnished labor or material used in the construction or repair of any school building, payment for which has not been made, shall have the right to intervene and be made a party to any action instituted by the school corporation on the bond of the contractor, and to have his rights and claims adjudicated in such action and judgment rendered thereon, subject, however, to the priority of the claim and judgment of such school corporation. If the full amount of liability of the surety on such bond is insufficient to pay the full amount of such claims and demands, then, after paying the full amount due the corporation, the remainder shall be distributed pro rata among such interveners.

Source: § 1, Ch. 138, 1907; § 1, Ch. 245, 1909.

§ 7616. Rights of Subcontractors. If no suit should be brought by the school corporation within six months from the completion and final settlement of such contract, the person supplying the contractor with labor or material shall, upon application therefor and furnishing affidavit to the corporation that labor or material for the prosecution of such work has been supplied by him and payment for the same has not been made, be furnished with a certified copy of such contract and bond, upon which he shall have a right of action and shall be authorized to bring suit in the name of the school corporation in the circuit court in the county in which such contract was to be performed and not elsewhere, for his use and benefit, against such contractor and his sureties, and to prosecute the same to final judgment; provided, that where suit is instituted by any such person on the bond of the contractor, it shall not be commenced until six months after the complete performance of such contract and final settle-

ment thereof but must be commenced within one year thereafter; and provided, further, that where suit is so instituted by any such person only one action shall be brought, and any person may file his claim in such action and be made a party thereto within one year from the completion of the work under such contract, and not later; and provided, further, that costs shall not be taxed in such suit against such school corporation. If the recovery on the bond should be inadequate to pay the amounts found due all such persons, judgment shall be given to each person for his pro rata of the amount of the recovery. The surety on such bond may pay into court for distribution among such claimants and creditors the full amount of the penalty named in the bond, less any amount which such surety may have paid to such corporation by reason of the execution of such bond, and upon so doing the surety shall be relieved from further liability; and provided, further, that in all suits instituted under the provisions of this article personal notice of the pendency of such suit, informing them of their right to intervene, as the court may order, shall be given to all known creditors, and in addition thereto notice shall be given by publication in some newspaper of general circulation, published in the county where the contract is being performed, for at least three successive weeks, the last publication to be at least three months before the time limited therefor.

Source: § 2, Ch. 138, 1907.

§ 7617. Failure to Secure Bond—Liability of Corporation. In case any school corporation shall fail or neglect to require the execution of the bond provided for in the second preceding section, such corporation shall be liable to pay any person who shall have performed labor or furnished any material that entered into the erection, alteration, repair or improvement of such building the value of such work or material and an action may be maintained therefor; provided, that an action brought under the provisions of this section shall be commenced within ninety days from the acceptance of the work for which the same shall be claimed.

Source: §§ 2, 3, Ch. 245, 1909. Suit maintainable for material upon failure to require bond; sufficiency of complaint; defense that action was not commenced within ninety days must be pleaded in answer. *Plumbing Supply Co. v. Board of Education*, 32 S. D. 129, 142 N. W. 260.

CHAPTER 10.

TEXT BOOKS

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| <p>§ 7618. County Text Book Committee.
 § 7619. Meeting of Committee.
 § 7620. Selecting Text Books.
 § 7621. Notice of Meeting.
 § 7622. Contract for Books, Depositories Designated.
 § 7623. Contract Provisions.
 § 7624. Bond of Depository.</p> | <p>§ 7625. List of Books for Each School.
 § 7626. Free Text Books.
 § 7627. Book Cases.
 § 7628. Contract May be Modified.
 § 7629. Bribery Prohibited.
 § 7630. Article Not Applicable to Certain Corporations.</p> |
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§ 7618. County Text Book Committee. The county superintendent of schools, the president of the board of education of all independent districts, the county auditor, states attorney, county commissioners, and one person from each commissioner's district, who shall be selected by the members of the school board of such commissioner's district present at a meeting to be called by the county superintendent, shall constitute the county text book committee for the purpose of selecting and adopting all the text books needed for use in public schools in the county. The county superintendent of schools shall be chairman of such committee, the county

auditor shall be secretary and a majority of such committee shall constitute a quorum for the transaction of business.

Source: § 225, Ch. 135, 1907.
The name "county board of education" changed to "county text book committee" to distinguish this body from the county board of education in unorganized counties.

§ 7619. Meeting of Committee. Such committee shall meet at the office of the county superintendent of schools on the second Tuesday of June, 1922, and every five years thereafter, and select and adopt a complete series of school text books to be used in all the schools of the county; provided, that nothing in this article shall be construed to prevent any county text book committee from selecting a series of text books from two or more publishers; provided, further, that the board of education in independent districts may adopt other or additional books by the same or other authors. The county text book committee shall advertise for twenty days in a newspaper published in each county that at a time and place named in the notice such committee will receive sealed bids for furnishing school books to the pupils of all public schools in the county, as provided in this article, for a term of five years. Other necessary books shall be purchased and contracted for at the same time.

Source: § 226, Ch. 135, 1907.

§ 7620. Selecting Text Books. Before selecting and adopting school text books in accordance with the provisions of this article, it shall be the duty of such committee to take into consideration the books used in the county, and all books submitted by publishers, and to most carefully consider the price, the type, the material, the binding and other items that go to make up a desirable text book, and no text book shall be adopted the price of which is above the contract or wholesale price at which such books shall have been furnished to any other state, county or school corporation in the United States during the year previous to such adoption. The county superintendent shall annually at the close of the year make a report to the county text book committee as to the operation of the school book contract.

Source: § 227, Ch. 135, 1907.

§ 7621. Notice of Meeting. The county superintendent shall notify each member of the county text book committee, in writing, of the time and place of meeting at least ten days before the date of meeting, and he shall prepare and furnish such information as shall assist the committee in acting for the best interest of the people.

Source: § 228, Ch. 135, 1907.

§ 7622. Contract for Books, Depositories Designated. The board of county commissioners shall contract with the publishers of such books as have been adopted by the county text book committee, designating the price at which such books shall be furnished to them or to their authorized agents, and they shall designate a depository for each school corporation in the county where school books shall be sold to pupils at not more than ten per cent above cost, and they shall pay for the books and transportation of the same, so contracted for, out of the general fund, on warrants signed by the county auditor and countersigned by the chairman of the board of county commissioners; provided, that the same depository may be designated for one or more school corporations.

Source: § 229, Ch. 135, 1907.

§ 7623. Contract Provisions. The following shall constitute a part of every contract with publishers as provided in this article, whether contained in such contract or not: Whenever the state shall have published a sufficient number of text books, used in the public schools of the state, to supply the schools of any county, upon notice given by the governor to the county auditor of such county, this contract shall be void as far as

It relates to such books and the county auditor shall immediately notify the publishers holding such contract. The county commissioners of such county shall forthwith supply all the schools of the county with the books printed by the state. The auditor of such county shall on or before the eleventh day of each calendar month send money for all state books sold to the state treasurer, together with such reports as the governor may direct.

Source: § 230, Ch. 135, 1907.

§ 7624. **Bond of Depository.** The board of county commissioners may require a good and sufficient bond from each depository designated by it as its agent, and such agent shall be required to file a statement with the county auditor on or before the first day January, April, July and October, showing the number and kind of books sold by him, and the number and kind of books on hand in such depository on the last day of the preceding month, and all money due the county by such depository shall be paid into the county treasurer at the time of filing such statement. The county auditor shall supply each depository with proper blanks for making such report.

Source: § 231, Ch. 135, 1907.

§ 7625. **List of Books for Each School.** The county text book committee shall furnish a printed list of books adopted, designating the retail price of each, and supply one or more copies to each school corporation and to each depository. The secretary or clerk of each school corporation shall post such price list in each room under his supervision.

Source: § 232, Ch. 135, 1907.

§ 7626. **Purchase of Books.** All books for the several school districts of the county shall be purchased by the county in compliance with the contract entered into by the Board of County Commissioners, and shall be paid for out of the county general fund. The County Auditor shall be designated by the Board of County Commissioners as purchasing agent, who shall order and keep on hand a sufficient number of each text of books to supply each pupil in the school of the county, which books shall be furnished to the pupils free of cost in the following manner: The clerk of the school district board, or the secretary of the Board of Education, in each independent district, shall ascertain what books are needed in the school, or schools, in his district from time to time and order the same from the county auditor, who shall furnish such books. Thereupon the County Auditor shall charge the cost of such books to the school district ordering the same and if the school district does not pay for the same at the time of ordering, the County Auditor shall charge the same to the school district and deduct the amount from the first installment of the school fund money belonging to said district and give the school district credit for the same.

§ 2. **Book Case.** Each school district board, or Board of Education, shall procure a safe book case with lock and key for each school or department thereof, which case shall be placed in the school room for the proper care of the books belonging to such district, and when school is not in session the books shall be carefully placed there in by the teacher. The teacher shall be custodian of the books belonging to the district used by the pupils thereof during the term of school and shall see that the books are carefully handled by the pupils and preserved in as good condition as when placed in the hands of the pupils at the beginning of the term, natural wear considered, and shall also prevent the loss of books from the school. Any pupil who removes a book from the school and fails to return the same or destroys the book shall be required to pay for the same or return a like new book in its place at his discretion.

§ 3. **Teachers to Make Invoice of Books.** At least one week before the close of school for the term the teacher shall make a careful inventory

of the books belonging to such school district or department thereof and forward one copy of the same to the district clerk, or secretary of the Board of Education, one copy to the County Superintendent of Schools, blanks for such inventory to be placed in the hands of the teachers by the County Superintendent, together with the blanks for the teachers' final report now provided by law. After having received such inventory the district clerk, or secretary of the Board of Education, shall check the books at the school belonging to the district with the inventory made by the teacher and if he finds that the teacher has made an incorrect inventory he shall make report of the same to the County Superintendent of Schools with correct notations and may in his discretion withhold five per cent of the teacher's last month's salary. It shall also be the duty of the County Superintendent or City Superintendent of schools in independent districts, to impress upon the teachers and pupils of the several schools of the County the necessity of properly caring for and preserving the books belonging to the district. The inventory of books above referred to, or a copy thereof, shall be furnished the teacher at the opening of the school the succeeding term and checked at the beginning of the term with the books in the book case in such school room. The books shall remain the property of the school corporation and shall be used for the benefit of the pupils attending such school, and no books shall be removed from the district for any purpose whatever without the consent of the school board or Board of Education, and any person who removes any such book or books, from the school district without authority from the school board and a promise to return the same at a specified time, or if removed upon such authority fails to return the same, shall be guilty of theft and upon conviction shall be punished accordingly.

§ 4. The County Auditor shall ascertain the needs of the schools of the county. He shall call to his assistance the County Superintendent and also the City Superintendent of Schools within the county, or the secretary of the Board of Education in independent district within the county, who shall consult the school district boards and ascertain what books are needed to meet the needs of the district, and the school district board, or the board of education in independent districts, shall purchase such books as are in in good condition and which the pupils wish to dispose of and the same shall be the property of the district and be a part of the free text book supply for such districts.

§ 5. **Contagious Diseases in School.** If any contagious disease such as smallpox, scarlet fever, diphtheria, infantile paralysis, or other transmittable disease, breaks out in the school by which it is necessary to close the school, it shall be the duty of the school board, or the Board of Education, before such school is opened again to thoroughly fumigate the room and text books therein to prevent a recurrence of the disease among the pupils.

§ 6. Provided, that in school districts maintaining a high school course, the Board of Education, or School Board, by a majority vote, shall upon the recommendation of their Superintendent, or Principal, adopt all books for use in the school above the eighth grade; such books as adopted shall be contracted for such periods of time as the Board may determine but not to exceed five years, and the books shall be purchased by the Board of Education, or School Board, and furnished free for the use of all pupils attending the schools of such district. Provided further, that Boards of Education in cities not under the direct supervision of the county superintendent may purchase texts direct from the publishers instead of purchasing same through the county auditor.

§ 7. **Penalty for Using Other Than Selected Books or Failing to Furnish Books Free to the Pupils.** Any school board, teacher, or trustee, who shall use or provide for the use of the public schools of the state text books other than those adopted except as herein otherwise provided, or that fails to furnish books free for the use of the pupils shall be deemed

guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00).

Source: Chap. 173, S. L. 1919.

§ 7628. **Contract May be Modified.** Books once adopted or contracted for, under the provisions of this article, shall not be changed during a period of five years, except for books printed by the state; provided, that the county superintendent, upon the request of at least two-thirds of all the school boards of the county, may call a meeting of the county text book committee, upon notice to the members thereof as required in section 7621 at which called meeting the existing contract may be modified as agreed upon by such committee and the publishers.

Source: § 235, Ch. 135, 1907.

§ 7629. **Bribery Prohibited.** No school teacher, school officer or member of any school board or committee shall be allowed to receive any emolument, in cash or otherwise, from any publisher or publishers of school books, in payment for a vote or a promise to vote for or use his influence for any book or books to be used in the schools under his charge. Nor shall any agent or other person be allowed to give or offer any emolument as heretofore described or promise of work or other inducement to any teacher, school officer or member of any school board or committee for any vote, or promise to vote or to use his influence for, any book or books to be used in the schools under his charge. Provided, that nothing in this section shall be construed to prevent any school officer from receiving a reasonable number of sample copies for investigation, with a view to obtaining information as to the book or series of books for which such officer shall cast his vote; provided, further, that nothing in this section shall be construed to prevent any teacher from obtaining employment from any publishing house, in schools not under his direct charge. Any person violating any provisions of this section shall be deemed guilty of a misdemeanor.

Source: § 236, Ch. 135, 1907.

§ 7630. **Article Not Applicable to Certain Corporations.** None of the provisions of this article shall be applicable to independent school corporations, owning and using a system of text books.

Source: § 236, Ch. 135, 1907.

CHAPTER 11.

COMPULSORY EDUCATION

- Article 1. Ethical Instruction.
 - Article 2. Music.
 - Article 3. Humane Treatment of Animals.
 - Article 4. Narcotics and Alcohol.
 - Article 5. Ordinary Branches.
 - Article 6. Indian Children.
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ARTICLE 1.

ETHICAL INSTRUCTION.

§ 7631. **Ethical Instruction.** Moral instruction intended to impress upon the mind of pupils the importance of truthfulness, temperance, purity, public spirit, patriotism, respect for honest labor, obedience to

parents and due deference to old age shall be given by every teacher in the public service of the state.

Source: § 143, Ch. 135, 1907.

ARTICLE 2.
MUSIC.

§ 7632. General Requirement.
§ 7633. In Normal Schools.
§ 7634. In Graded Schools.

§ 7635. In Country Schools, Single Teacher.

§ 7632. **General Requirement.** The elements of vocal music including, when practicable, the singing of simple music by note, shall be taught in all the public schools of the state.

Source: § 1, Ch. 19, 1909.

§ 7633. **In Normal Schools.** Music shall be taught in all of the state normal schools, and the minimum requirement of graduates from such schools must be at least two hours per week for one school year.

Source: § 2, Ch. 19, 1909.

§ 7634. **In Graded Schools.** In all schools having two or more grades, instruction in music shall be given by an instructor qualified to teach the rudiments of music, who may be a teacher of one of the departments, if qualified to teach this subject.

Source: § 3, Ch. 19, 1909.

§ 7635. **In Country School, Single Teacher.** In the country schools conducted by a single teacher, the elements of music notation by vocal and black board drill, in connection with simple songs, shall be taught. But no teacher shall be refused a certificate, nor shall the grade of his certificate be lowered on account of his lack of ability to instruct or sing.

Source: § 4, Ch. 19, 1909.

§ 7636. **In Normal Institutes.** It shall be the duty of the county superintendent to have taught annually in the normal institutes the elements of vocal music, by some competent person, for at least twenty minutes of each day.

Source: § 231, Ch. 135, 1907.

ARTICLE 3.
HUMANE TREATMENT OF ANIMALS

§ 7637. **Amount of Instruction Required.** There shall be taught in the public school of this state, in addition to other prescribed branches of study, a system of humane treatment of animals. Each school supported wholly or in part by the public funds of this state shall instruct all scholars in the laws of this state pertaining to the humane treatment of animals, with such studies on the subject as the board of education having supervision thereof may adopt, such instruction to consist of not less than one lesson of ten minutes each during each week of the school year.

Source: § 144, Ch. 135, 1907.

§ 7638. **Vivisection Prohibited.** No experiment upon live animals, to demonstrate facts in physiology, shall be permitted in any school in this state.

§ 7502. Treasurer's Settlement.

ARTICLE 4.
NARCOTICS AND ALOCHOL

§ 7639. **Character and Method of Instruction.** In addition to other prescribed branches, in all schools supported wholly or in part by public money, instruction shall also be given as to the nature of alcoholic drinks and narcotics and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of relative physiology and hygiene, and such subjects shall be taught as thoroughly as arithmetic and geography are taught. Such instruction shall be given orally to pupils who are not able to read, and shall be given by the use of text books in the case of pupils who are able to read.

Source: § 238, Ch. 135, 1907.

§ 7640. **Text Books.** The text books used for the instruction required to be given by the preceding section shall give about one-fourth of their space to the consideration of the nature and effects of alcoholic drinks and narcotics, and the books used in the highest grade of graded schools shall contain at least twenty pages of matter relating to this subject; but no book in which the required amount of this subject shall appear, in whole or in part, as a separate chapter at the end of the book shall be considered as complying with the requirements of this statute. Text books on physiology in use in any schools, not in accordance with the requirements of this section, shall be changed for books satisfying its requirements, as soon as existing contracts will permit.

Source: § 239, Ch. 135, 1907

§ 7641. **Neglect and Failure of School Officers Reported.** It shall be the duty of county and independent district superintendents and boards of all educational institutions receiving aid from the state to report to the superintendent of public instruction any failure or neglect on the part of school boards, boards of education and boards of all educational institutions receiving aid from the state, to make proper provision, in any and all the schools under their jurisdiction, for instruction in the nature of alcoholic drinks and narcotics and their effects upon the human system, in connection with the several divisions of the subject of relative physiology and hygiene, as required by this article; and such failure on the part of such boards, thus reported or otherwise satisfactorily proved, shall be deemed sufficient cause for withholding the warrant for the state appropriation of school money to which such district or educational institution would otherwise be entitled.

Source: § 141, Ch. 135, 1907.

ARTICLE 5.
ORDINARY BRANCHES.

§ 7642. General Requirements. struction.
§ 7643. Supervision of Private In- § 7644. Method of Enforcement.

§ 7642. **General Requirements.** Every person having under his control a child of the age of eight years and not exceeding the age of sixteen years shall, annually, cause such child to regularly attend some public school or private day school, for the entire annual term during which the public school in the district in which such person resides is in session, until such child shall have completed the first eight grades of the regular common school course or shall have completed a course in a private day

school equivalent to the first eight grades of the regular common school course; provided, that the district school board or board of education, as the case may be, may, after such child shall have completed the sixth grade or its equivalent, decrease the required term of attendance to not less than sixteen continuous weeks in each year until such child shall have completed the eighth grade of the regular common school course or its equivalent, or shall have reached the age of sixteen years; and provided, further, that this section shall not apply to a child otherwise instructed by a competent person and for a like period of time in the branches taught in the public schools, or a child who has already acquired the branches of learning taught in the public schools or whose physical or mental condition is such as to render his attendance at school, as hereinbefore required, unsafe, impracticable or harmful either to such child or others; provided, further, that all such instruction shall be given only and entirely in the English language.

Source: § 148, Ch. 135, 1907; Ch. 170, 1915; Ch. 203, 1917; Ch. 41, 1918.

§ 7643. Supervision of Private Instruction. All private school instruction and all private instruction accepted in lieu of public school instruction shall first be approved by the county superintendent, who shall exercise supervision over such schools and such instruction, and shall exercise the right of visitation and inspection thereof and may revoke his approval of such instruction at any time: Provided, that any person aggrieved by the decision of the county superintendent in the exercise of such supervision may appeal to the superintendent of public instruction, whose decision shall be final; provided, that no person shall be permitted to teach in any private school any of the branches prescribed to be taught in the public schools unless such person shall hold a certificate entitling him to teach the same branches in the public schools of this state; provided, further, that whenever, in the discretion of the superintendent of public instruction, the scarcity of teachers shall require it, he may, during the period of any war and for one year thereafter, grant permits to teach in either the public or private schools, such permits to extend over not more than one school year and to be revocable at any time, in the discretion of the superintendent of public instruction.

Source: Ch. 41, 1918.

§ 7644. Methods of Enforcement. The board of education of each independent school district shall appoint each year a truant officer, whose duty it shall be, under the direction of such board or its superintendent, to enforce the provisions of the preceding section: Provided, that the county superintendent shall be ex officio truant officer for all other districts. The truant officer shall receive such compensation for his services as the board of education may determine. It shall be the duty of the truant officer, teacher, member or agent of such board of education to petition, and any reputable citizen may petition, the county court of the county, to inquire into the case of any child of compulsory school age who is not attending school, or whose attendance is irregular, or who has been guilty of habitual truancy; and the petition shall also state the name, if known, of the father or mother of such child or the survivor of them, and if the father or mother is not living or cannot be found in the county or if their names cannot be ascertained, then the name of the legal guardian, and if there be none, then the person who, in the judgment of the court, is responsible for the conduct of such child. Such petition shall be verified by oath upon belief of the petitioner, and upon its being filed, the judge of the county court shall cause to be issued a citation to the sheriff of the county directing him to bring such parent, guardian or person before the court or judge and to summon such witnesses as may be necessary to ascertain the facts in the case, and if the court or judge shall find that the material facts set forth in the petition are true, then such parent,

guardian or person shall be fined as herein provided. It shall also be the duty of such truant officer to arrest children of school age who habitually haunt public places and have no lawful occupation, and also truant children who absent themselves from school without leave, and place them in charge of the teacher having charge of the school which such children are by law entitled to attend. The board of education shall have the power, in its discretion, to set aside a room or building for the detention and instruction during reasonable hours, of such children as may be assigned thereto by the superintendent, principal or board of education because of habitual truancy, continued violation of the rules of the school, or of vicious or immoral habits, and to pass and enforce such rules and to provide such teachers and other agents, and such equipment, as may be necessary to maintain discipline and give instruction in the same branches as are provided in other rooms or buildings. And it shall be the duty of such teacher to assign such children to their proper classes and instruct them in such studies as they are fitted to pursue. Any school officer or person failing to perform the duty required of him by this article shall be liable to a fine of not less than ten dollars nor more than twenty dollars for every such offense.

Source: § 149, Ch. 135, 1907; Ch. 213, 1917.

(H. B. 187)
RELATING TO COMPULSORY EDUCATION.

§ 1. All persons between the ages of 16 and 21 years inclusive who are not physically or mentally disqualified, and who do not possess the ability to speak, read and write the English language as is required for the completion of the fifth grade in public schools of this State, shall attend public evening school classes for at least eight hours each week during the entire time that evening school classes of the proper grade shall be in session in the school district within five miles of his or her place of residence or until the necessary ability has been acquired; Provided that regular attendance at a public day or part-time school shall be accepted in place of attendance at evening school classes.

The clerk of each school district in this state shall at the time of taking the regular school census, prepare and deliver to the County Superintendent of Schools a list of all persons in such district who are known or deemed to come under the provisions of this act.

The State Superintendent of Public Instruction may also require any teachers or superintendent or clerk of any school district board to prepare and furnish to him on or before the first day of June in any year a list containing the names of persons within their respective districts who are deemed to be subject to the provisions of this act.

The determination as to the persons who shall be subject to the provisions of this act shall be made by examination to be held by the County Superintendent or other authorized person under rules to be prescribed by the State Superintendent of Public Instruction. The District School Board, the County Superintendent of Schools, and the State Superintendent of Public Instruction or any one of them may direct any persons to take such examinations and the failure of such persons to take such examinations shall be construed as evidence that they are subject to the provisions of this section.

§ 2. Any person subject to the provisions of Section 1 of this act who shall wilfully violate its provisions, shall upon conviction, be punished by a fine of not less than twenty-five (25) dollars, nor more than one hundred (100) dollars, or by imprisonment in the county jail not less than

ten (10) nor more than thirty (30) days, or both such fine and imprisonment in the discretion of the Court for each separate offense. The parent guardian, or persons sustaining the relation of loco parentis of any person subject to the provision of Section 1 of this act shall be held responsible for the school attendance of such person. The failure to maintain a regular attendance during each school month at an evening school which is in session in that district shall constitute a separate offense for the purpose of this section.

§ 3. The District School Board or Board of Education of any School District may, and upon the direction of the Superintendent of Public Instruction shall, establish and maintain for at least eight hours per week during a period of 25 weeks, or for a total of 200 hours during the school year, evening school Classes in English, the fundamental principles of the Constitution, American History, and such other subjects as bear on Americanization as a part of the public schools; Provided, that no district shall be required to maintain a class for fewer pupils than a minimum number to be determined by the State Superintendent of Public Instruction. Such classes shall be organized to meet the needs of the persons subject to the provisions of Section 1 of this act, and such classes shall be held at such places that in the opinion of the State Superintendent of Public Instruction are deemed most accessible to the members of the class.

§ 4. The District School Board or Board of Education of any school district may, and upon the direction of the State Superintendent of Public Instruction shall, establish and maintain as a part of the public schools, evening school classes in any subject for which there may exist, in the opinion of the State Superintendent of Public Instruction among persons over 16 years of age a sufficient demand; Provided, that no school district shall be required to establish or maintain a class for less than a minimum number of persons to be determined by the State Superintendent of Public Instruction.

§ 5. A part, not to exceed one-half of the salaries of teachers and the expenses of maintenance of evening school classes established under the provisions of this act shall be paid from funds hereinafter appropriated. Such payments shall be made only upon sworn statements of expenditures for salaries of teachers and expenses of maintenance under rules made by the State Superintendent of Public Instruction. No payments shall be made for salaries of teachers in classes established under the provisions of Section 3 of this act unless such classes shall have been conducted for the minimum time therein stated, except by special action of the State Superintendent of Public Instruction.

§ 6. The State Superintendent of Public Instruction shall make regulations regarding the examinations prescribed by Section 1 of this act, shall make regulations regarding the conditions under which it will direct the establishment of evening school classes, shall make regulations regarding the regular attendance required in the various sections of this act, shall determine the minimum number of pupils for which evening school classes shall be organized and maintained, shall arrange for State Supervision of work done under the various school districts for portions of the funds hereinafter appropriated, and shall make any other regulations necessary to carry out the provisions of this act.

Provided that any person or persons more than 21 years of age and less than 50, who do not possess the ability to read, write and speak the English language equivalent to the requirements for the fifth grade in our State Course of Study, for the common schools may attend during good behavior free of charge any of the special classes established under the provisions of this act.

§ 7. The regular attendance required by this Act shall be secured in the same manner and under the direction of the same officers as is provided by law for the compulsory regular attendance at any other public schools or classes.

§ 8. For the purpose of defraying the expenses of maintaining evening school classes and of enforcing the provisions of this Act, there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$15,000 or so much thereof as may be necessary for the purpose for each of the fiscal years ending June 30, 1920 and 1921. This appropriation shall be expended by warrants of the State Auditor upon the State Treasurer on duly sworn itemized vouchers approved by the State Superintendent of Public Instruction.

§ 9. The State Sheriff shall be ex-officio truant officer, and is hereby charged with the enforcement of the provisions of this act as well as all laws of this state relating to compulsory attendance of persons of school age.

Source: Ch. 169, S. L. 1919.

ARTICLE 6. INDIAN CHILDREN

§ 7645. Attendance upon United States Schools. § 7647. Punishment for Failure to Comply with Demand.
§ 7646. Duty of Principal or Superintendent. § 7648. Duty of Sheriffs and Officers.

§ 7645. Attendance Upon United States Schools. Whenever the United States erects or causes to be erected and maintained a school for general educational purposes within the state of South Dakota, and the expense of the tuition, lodging, food and clothing of Indian pupils therein is borne by the United States, it shall be compulsory on the part of every parent, guardian or other person in the state having control of any Indian child between the ages of six and eighteen years, eligible to attend such school, to send such child to such school for a period of nine months, or during the annual term, unless such child be excused from attendance by the superintendent of schools of the county in which such child resides, and a certificate be procured showing that the physical or mental condition of such child has been or is such as to prevent his attendance at school or application to study for the period required, or that such child is being taught in a public or other school, in such branches as are usually taught in the public schools; provided, that in case the United States does not make provision for the free transportation of such child to and from his home to such school, such child, if he resides ten or more miles from such school, shall not be subject to the provisions of this article.

Source: § 1, Ch. 136, 1907.

§ 7646. Duty of Principal or Superintendent. It shall be the duty of all principals or superintendent or schools mentioned in the preceding section, before attempting to enforce its provisions, to serve, or cause to be served, a demand for the attendance of the child, naming him, and also designating the school at which his attendance is required, with a copy of this article, upon the parent, guardian or other person having charge of the child; and such parent, guardian or person shall within ten days deliver such child at such school or to the principal or superintendent thereof, or furnish satisfactory proof that the physical or mental condition of such child will not admit of his attendance.

Source: § 2, Ch. 136, 1907.

§ 7647. Punishment for Failure to Comply with Demand. Any parent, guardian or other person having the custody or control of any Indian child, who shall wilfully neglect or refuse to comply with the demand mentioned in the preceding section, within the time specified therein, shall

be deemed guilty of a misdemeanor and, upon conviction thereof, for the first offense shall be punished by a fine of not less than ten nor more than twenty-five dollars, or by imprisonment in the county jail for not more than fifteen days, or by both such fine and imprisonment; and for the second and each succeeding offense shall be punished by a fine of not less than twenty-five nor more than fifty dollars, or by imprisonment in the county jail for not less than thirty days, or by both such fine and imprisonment.

Source: §§ 3, 4, Ch. 136, 1907.

§ 7648. Duty of Sheriffs and Officers. It shall be the duty of all sheriffs, constables, policemen, town and city marshals to take cognizance of this article and assist principals and superintendents of schools in carrying out its provisions.

Source: § 6, Ch. 136, 1907.

CHAPTER 12.
TEACHERS REFERENCE BUREAU

§ 7649. Application for Registration.	School Boards and Officers.
§ 7650. Registration.	§ 7652. Registration Fees, Disposition.
§ 7651. Information Furnished to	

§ 7649. Application for Registration. Any person qualified to teach in any of the public schools of this or any other state may make application to the superintendent of public instruction for registration, and may file with such application indorsements, recommendations, references and a copy of his or her certificate.

Source: § 1, Ch. 215, 1917.

§ 7650. Registration. Upon receipt of such application and upon its appearing to the superintendent of public instruction that such person is a fit and suitable person to act as teacher in the public schools of this state, and upon the payment of a registration fee of one dollar, it shall be the duty of the superintendent of public instruction to register such person on a list to be made and kept for the purpose, and to file the recommendations, indorsements, references and data as to grade of certificate.

Source: § 2, Ch. 215, 1917.

§ 7651. Information furnished to school Boards and Officers. It shall be the duty of the superintendent of public instruction to aid any school board or officer in selecting teachers, by furnishing such board or officer, upon application, with information and copies of letters of indorsement or reference on file in his office.

Source: § 3, Ch. 215, 1917.

§ 7652. Registration Fees, Disposition. All registration fees received by the superintendent of public instruction shall be covered into the state treasury, and shall be credited to the "Teachers Reference Bureau Fund," which is hereby appropriated for the payment of all necessary expenses of the superintendent of public instruction in maintaining a teachers reference bureau. Any balance remaining in such fund at the close of any fiscal year shall revert to the general fund of the state, and in the event that a registration fee of one dollar be not sufficient to properly carry on such bureau, the superintendent of public instruction is authorized to increase the registration fee in a sum sufficient to cover the cost of maintaining such bureau, not to exceed the sum of two dollars for each application.

Source: § 4, Ch. 215, 1917.

CHAPTER 3.
MISCELLANEOUS PROVISIONS

<p>§ 7653. School Year, Month, Week and Day Defined.</p> <p>§ 7654. Reorganization of City or Town.</p> <p>§ 7655. Purchase of Agricultural Lands by School Corporations.</p> <p>§ 7656. Publication of Reports.</p>	<p>§ 7657. Collection of Judgments.</p> <p>§ 7658. Appropriation for Memorial Day.</p> <p>§ 7659. No Sectarian Doctrine.</p> <p>§ 7660. Instruction in Patriotism.</p> <p>§ 7661. Flag on Public School Grounds.</p> <p>§ 7662. Frances Willard Day.</p>
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§ 7653. **School Year, Month, Week and Day Defined.** The school year shall begin July first and end June thirtieth. A school month shall consist of twenty days, a week of five days and a day of five and one-half hours, exclusive of intermissions. Saturday shall not be counted as school days. The time specified as a "school day" shall not apply to primary schools.

Source: § 135, Ch. 135, 1907.

§ 7654. **Reorganization of City or Town.** In all cases where any city or town, now organized and existing under and by virtue of any special charter, may adopt the provisions of the general law relating to cities or towns and reorganize under the same, such reorganization shall in no way limit or affect existing boundaries of any school district of which district such reorganized city or town may form a part, and shall in no way affect existing laws controlling or regulating such school district.

Source: Ch. 62, 1909.

§ 7655. **Purchase of Agricultural Lands by School Corporations.** Whenever any school district shall have made provision for the giving of systematic instruction in agriculture in its schools, such school district may purchase and hold agriculture lands, to be used in connection with the giving of such instruction. Whenever the land so selected is common school or endowment lands, it shall be lawful for the governor and commissioner of school and public lands to convey title thereto in the manner now provided by law for conveying title to school house sites. And the board of education of any such school corporation may expend money from the general fund of the corporation for the purchase of such lands: Provided, that no such corporation shall purchase for such purposes more than ten acres of agricultural land, nor expend for the purchase of such land any sum in excess of three dollars for each person of school age enumerated in the school census of such corporation for the year next preceding that in which the expenditure is made; provided, further, that in no case shall any school corporation be authorized to purchase land of value in excess of twenty-five hundred dollars.

Source: Ch. 165, 1915.

§ 7656. **Publication of Reports.** The board of education or school board of each organized school district, whether organized under special charter or as an independent school district, or otherwise, is required to publish in such newspaper as may be selected by the district board, a statement of the receipts and expenditures of such district within twenty days after the end of each fiscal year, which statement shall include the amount of money received, the amount paid for teachers, repairs and incidentals, the amount on hand and in what bank deposited. Such statement shall be published annually, in two consecutive issues of such newspaper, and the cost of such publication shall be paid for out of the general fund of such district.

Source: Ch. 173, 1915.

§ 7657. Collection of Judgment. Whenever a final judgment shall be obtained against any school corporation, the board thereof shall levy a tax upon the taxable property in the corporation for the payment thereof, and such tax shall be collected as other school taxes, but no execution shall issue against any school corporation. Such tax or taxes shall not be greater than two per cent in any one year, and any surplus fund in the treasury of the school corporation may be appropriated to the payment of a judgment. If the school board refuse or fail to levy such tax, the judgment creditor may apply to the board of county commissioners, who shall cause such tax to be levied upon the property of the school district. When collected it shall be paid over by the county treasurer to the judgment creditor, whose receipt therefor shall be delivered the same as money to the treasurer of the school corporation by the county treasurer. Such levy may be repeated until the judgment is paid.

Source: § 75, Ch. 135, 1907. of its territory into several districts.
Duty to levy tax for purposes of Security State Bank v. Cavour School
paying judgment against school dis- Dist., 38 S. D. 216, 160 N. W. 850.
trict on bonds issued prior to division

§ 7658. Appropriation for Memorial Day. All boards of education and district school boards are authorized, in their discretion, to appropriate funds for the purpose of defraying the necessary expenses of a proper observance of Memorial Day each year.

Source: Ch. 187, 1907.

§ 7659. No Sectarian Doctrine. No sectarian doctrine may be taught or inculcated in any of the public schools of the state, but the Bible, without sectarian comment, may be read therein.

Source: § 203, Ch. 135, 1907.

§ 7660. Instruction in Patriotism. In every educational institution in this state, whether public or private, one hour each week in the aggregate shall be devoted to the teaching of patriotism, the singing of patriotic songs the reading of patriotic addresses, and a study of the lives and history of American patriots. It shall be the duty of all instructors, and of all school officers and superintendents, to enforce the provisions of this section and any person who shall fail, neglect or refuse to enforce its provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five nor more than one hundred dollars, or by imprisonment in the county jail not less than five nor more than thirty days, or by both such fine and imprisonment. It shall be the duty of the superintendent of public instruction to revoke the certificate of any instructor in any school in this state, who shall fail, neglect or refuse to enforce the provisions of this section.

Source: Ch. 39, 1918.

§ 7661. Flag on Public School Grounds. All boards of education and school boards are authorized and required to erect and maintain, upon each public school building or upon the grounds surrounding the same, a good and sufficient flagstaff or pole, together with all necessary appliances, and to provide a United States flag of not less than three by five feet, which shall be floated from such flagstaff or pole during the school hours of each school day, except when a violent storm or inclement weather would destroy or materially injure such flag. The expense of erecting and maintaining the flag, as provided herein, shall be paid as other incidental expenses of the school corporation.

Source: Ch. 189, 1913.

§ 7662. Frances Willard Day. The twenty-eighth day of September or the school day in each year nearest that date, shall be designated as "Frances Willard Day," and in every public school in the state one quar-

ter of the school day shall be set apart for instruction and appropriate exercises in patriotism, civic improvement and the history and benefits of the prohibitory amendment to the constitution and the prohibitory laws of the state. It shall be the duty of all school officers, and all public school teachers in the state, to carry out the provisions of this section; and it shall be the duty of the superintendent of public instruction to prepare suitable material for the observance of "Frances Willard Day."

Source: Ch. 228, 1917.

(H. B. 119)
RELATING TO TRAINING OF TEACHERS.

§ 1. There is hereby appropriated to be paid out of any moneys in the State Treasury not otherwise appropriated the sum of thirty thousand dollars (\$30,000.00) for the fiscal year 1919 and sixty thousand dollars (\$60,000.00) for the fiscal year 1920, for state aid to high schools which shall maintain a normal department for the training of teachers with special reference to work in the rural schools of the State. The moneys hereby appropriated shall be apportioned by the Superintendent of Public Instruction as hereinafter provided. The amount of state aid apportioned to any one high school shall not exceed the sum of one thousand (1000) dollars per annum.

§ 2. The Superintendent of Public Instruction may approve for state aid, one or more high schools in each organized county of the State in which there is not already established a state educational institution maintaining a normal department approved by the Superintendent of Public Instruction, provided that not more than one high school in any county shall receive state aid until an opportunity has been afforded to one school in every county in the state to comply with requirements herein provided.

§ 3. A high school in order to be approved for normal training must be a four-year accredited high school and must maintain a course of study in which instruction shall be given in pedagogy including methods, principles of education, school management and practice teaching.

The Superintendent of Public Instruction shall further prescribe the conditions of admission to the normal training classes, the course of instruction, and the rules and regulations under which such instruction shall be given.

§ 4. The clerk or secretary of the board of education of any school district maintaining a high school desiring to obtain state aid under the provision of this act shall so notify the Superintendent of Public Instruction who shall then personally by himself, or by a properly authorized assistant, visit and inspect the school and if it is found to meet all the requirements of this act and the rules and regulations prescribed by the Superintendent of Public Instruction, he shall approve the school for state aid in the following amount:

(1) A school enrolling not less than five (5) or more than ten (10) students in the normal training classes shall be entitled to the sum of five hundred (500) dollars per annum.

(2) A school enrolling more than ten (10) and less than twenty (20) students in the normal training classes shall be entitled to receive the sum of seven hundred (700) dollars per annum.

(3) A school enrolling twenty (20) or more students in the normal training classes shall be entitled to receive the sum of one thousand (1000) dollars per annum.

§ 5. The State Superintendent shall on or before the first day of June, in each year apportion the money to each approved school and shall certify the apportionment for the several school districts of the state to the State Auditor, who shall draw warrants on the State Treasurer in favor of the Secretary of the Board of Education or Clerk of school district, for the sum so specified for the different school districts of the state by the Superintendent of Public Instruction.

§ 6. The appropriation provided for by this act shall not be deemed to include the cost of inspection and supervision by the Superintendent of Public Instruction but the expense of such inspection and supervision shall be paid out of the funds of the Department of Public Instruction provided for high school inspection.

Approved March 12th, 1919.

Source: Ch. 182, S. L. 1919.

(H. B. 240)

AID TO RURAL AND CONSOLIDATED SCHOOL DISTRICTS.

§ 1. There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of Eighty-five thousand (\$85,000) dollars for the fiscal year ending June 30, 1920, and the sum of one hundred thousand (\$100,000) dollars for the fiscal year ending June 30, 1921, for the purpose of aiding and encouraging the improvement of educational conditions in the rural school districts of this state. The amount herein appropriated shall be distributed annually to school districts which shall comply with the provisions of this law as hereinafter provided.

§ 2. For the purpose of distributing State Aid school districts shall be classified as State Rural Schools and State Consolidated Schools.*

The amount herein appropriated shall be apportioned as follows: For the fiscal year ending June 30, 1920, Thirty thousand (\$30,000) dollars, for aid to State Rural Schools; Forty-five thousand (\$45,000) dollars for Aid for State Consolidated Schools; and Ten thousand (\$10,000) dollars as State Aid for the erection of Teachers' Cottages; For the fiscal year ending June 30, 1921, Thirty-five thousand (\$35,000) dollars for aid to State Rural Schools; Fifty-five thousand (\$55,000) dollars for aid to State Consolidated Schools; and Ten thousand (\$10,000) dollars as State Aid for the erection of Teachers' Cottages.

§ 3. State Rural Schools. For the purpose of receiving State Aid, a State Rural School is defined as one which meets the following requirements:

- (a) The school shall be in session at least (9) months in the year.
- (b) It shall have a suitable modern school building properly lighted, heated, and ventilated, which shall comply with such requirements as to specifications and sanitation as are prescribed by the Superintendent of Public Instruction.
- (c) It shall provide at least one (1) acre of land for play grounds and experiment plats.
- (d) It shall have a suitable library and such other apparatus and equipment as shall be prescribed by the Superintendent of Public Instruction.
- (e) It shall be in charge of a teacher of successful experience holding a first grade certificate or one of higher grade.
- (f) It shall maintain a regular course of study for elementary schools

as prescribed by the state course of study, which shall include instruction in elementary agriculture and home economics.

§ 4. **State Consolidated Schools.** For the purpose of receiving State Aid, State Consolidated Schools shall be divided into three classes:

(1) A First Class State Consolidated School is defined as one which meets the following requirements:

(a) It shall comprise a district of at least eighteen (18) square miles, and shall not contain within its limits a village, town or other municipal corporation.

(b) It shall provide comfortable means of transportation for all pupils residing more than one mile and one-half from the school house.

(c) It shall be in session at least nine (9) months in the year.

(d) It shall have a suitable modern school building containing at least four (4) class-rooms which shall be properly lighted, heated and ventilated, and shall comply as to specifications and sanitation with the requirements prescribed by the Superintendent of Public Instruction.

(e) It shall provide at least three (3) acres of land for play grounds, gardens and experiment plats.

(f) It shall provide at suitable library and such other equipment and apparatus as may be prescribed by the Superintendent of Public Instruction.

(g) It shall be in charge of at least four (4) teachers, one of whom shall be principal and shall hold a state certificate or one of higher grade; the qualifications of the principal and other teachers shall be approved by the superintendent of Public Instruction.

(h) It shall maintain a regular course of study for elementary schools as prescribed by the state course of study, which shall include instruction in elementary agriculture, home economics and manual training.

(2) A Second Class State Consolidated School is defined as one which meets the following requirements:

(a) It shall comprise a district of at least eighteen (18) square miles and shall not contain within its limits a village, town or other municipal corporation.

(b) It shall provide comfortable means of transportation for all pupils residing more than one mile and one-half from the school house.

(c) It shall be in session at least nine (9) months in the year.

(d) It shall have a suitable modern school building containing at least two (2) class-rooms which shall be properly lighted, heated and ventilated, and shall comply as to specifications and sanitation with the requirement prescribed by the Superintendent of Public Instruction.

(e) It shall provide at least two (2) acres of land for play-grounds, gardens and experiment plats.

(f) It shall provide a suitable library and such other equipment and apparatus as may be prescribed by the Superintendent of Public Instruction.

(g) It shall be in charge of at least two (2) teachers, one of whom shall be principal and shall hold a first grade certificate or one of higher grade; the qualifications of the principal and other teachers shall be approved by the Superintendent of Public Instruction.

(h) It shall maintain a regular course of study, for elementary schools as prescribed by the state course of study, which shall include instruction in elementary agriculture and home economics.

(3) A State Consolidated High School is defined as one which meets the following requirements:

(a) It shall comprise a district of not less than twenty-five (25) square miles, and shall not contain within its limits a municipal corporation of more than five hundred (500) inhabitants.

(b) It shall provide comfortable means of transportation for all pupils residing more than one mile and one-half from the school house.

(c) It shall be in session at least nine (9) months in the year.

(d) It shall provide at least five (5) acres of land for play-grounds, gardens and experiment plats.

(e) It shall provide a suitable modern school building properly lighted, heated and ventilated and shall comply as to specifications and sanitation with the requirements prescribed by the Superintendent of Public Instruction.

(f) It shall maintain a suitable library and such other equipment and apparatus as may be prescribed by the Superintendent of Public Instruction.

(g) It shall employ not less than four (4) teachers in grades below the high school, and not less than three (3) teachers in the high school. The requirements for such teachers shall be prescribed by the Superintendent of Public Instruction.

(h) It shall maintain a regular course of study in the grades as is prescribed by the state course of study, and shall maintain a four (4) year accredited high school course, and which shall include instruction in agriculture, home economics and manual training.

§ 5. Applications For State Aid. Applications for State Aid as herein provided, both for State Rural Schools and State Consolidated Schools shall be made to the County Superintendent of Schools of the county in which such schools are located. The County Superintendent shall forward to the Superintendent of Public Instruction such applications as are indorsed and recommended by him together with the certificate of the Superintendent of the county wherein the school making such application is situated to the effect that such school has complied with the conditions prescribed in this act.

§ 6. Inspection By The Superintendent of Public Instruction. Applications for State Aid from State Rural and State Consolidated Schools which have the indorsement and recommendation of the Superintendent of the County wherein such schools are located shall be filed in the office of the Superintendent of Public Instruction, and prior to the apportionment of any aid under the provisions of this act, shall be duly inspected by the Superintendent of Public Instruction or by a properly authorized inspector.

§ 7. Amount and Method of Apportionment. Between the first day of April and the first day of June of each year, the Superintendent of Public Instruction shall apportion to each of the schools which have fully complied with the provisions of this act and such additional rules as may be prescribed by the Superintendent of Public Instruction, in the following amounts: To State Rural Schools, the sum of one hundred and fifty (\$150) dollars; to First Class State Consolidated Schools, the sum of four hundred (\$400) dollars; to Second Class State Consolidated Schools, the sum two hundred fifty (\$250) dollars; and to State Consolidated High Schools, the sum of six hundred (\$600) dollars; to any such school district receiving aid under the provisions of this act which does not contain within its boundaries a village, town or other municipal corporation and which shall erect a suitable cottage as a teacher's home according to the plans and specifications approved by the Superintendent of Public Instruction, the sum of five hundred (\$500) dollars upon completion of the building. Provided, however, that in case the amount appropriated and available shall not be sufficient to pay the amounts specified above, then the amount available shall be apportioned pro rata among the schools entitled thereto, and any moneys under this act shall be used solely in increase the efficiency of such schools. Provided that not more than one school of each class in any township shall receive aid under the provisions of this act.

§ 8. The Superintendent of Public Instruction shall keep a record showing all schools applying for and receiving aid under the provisions of this act, and shall keep a detailed account of all moneys disbursed by him for such purposes. The Superintendent of Public Instruction, with the

approval of the Governor, is authorized to prescribe such additional rules and regulations as shall be found necessary to secure uniformity in the administration of this act, and shall also publish and furnish to each county superintendent the requirements for State Rural and State Consolidated Schools.

§ 9. **Payment To District How Made.** The Superintendent of Public Instruction shall certify upon vouchers to the State Auditor the amount due to each school district approved for State Aid under the provisions of this act. The State Auditor shall draw warrants on the State Treasurer in favor of the secretary or clerk of such school district for the sum so specified for the different school districts of the State as certified to him by the Superintendent of Public Instruction.

§ 10. The Appropriation provided for in this act shall be used entirely as State Aid to the different classes of schools herein specified and in no way be used to defray the cost of inspection and supervision by the Superintendent of Public Instruction, but the expense of such inspection and supervision shall be paid out of the funds of the Department of Public Instruction provided for Rural School and High School Inspection.

Source: Ch. 149, S. L. 1919.

(S. B. 59)
COUNTY NURSES.

§ 1. Whenever in the opinion of the county board of health of any county in this state it is necessary, for the protection and preservation of the public health, to secure the aid and service of a trained nurse, or nurses, at the expense of the county, said board of health shall file with the county auditor of such county a written application for the employment of a trained nurse, or nurses, and a statement of the facts and conditions in regard to the public health upon which said application is based and such recommendations as to the term of employment, and the compensation to be paid by the county as they may deem proper, and in case in their judgment an emergency exists a demand that the board of county commissioners be forthwith called to meet in special session to act thereon.

§ 2. In counties where there is no board of health and in counties where the county board of health fails, neglects or refuses to act in such matters, twenty-five resident freeholders who are electors of such county, may petition the board of county commissioners to secure the aid and services of a trained nurse, or nurses, at the expense of the county, and in case in their judgment an emergency exists a demand that the board of county commissioners be forthwith called to meet in special session to act thereon. The board of county commissioners in considering such petition shall give to it the same force and effect as though made by the county board of health.

§ 3. Upon the filing of such application by the board of health or such petition, the county auditor shall forthwith call the county commissioners together in special session, providing such demand shall be made in said application or petition. In case no demand is made for a special meeting of the board of county commissioners, the county auditor shall forthwith notify the county commissioners of the filing of such application or such petition, as the case may be and it shall be the duty of the county commissioners at their next regular meeting thereafter to examine and consider the same. If sufficient grounds are set forth in such application or petition, for such employment, the county commissioners may forthwith employ a trained nurse, or nurses, in accordance with the recommendations contained in such application or petition and

shall fix the term of such employment and the compensation therefor, which compensation may be paid in whole or in part by the Red Cross Seal Commission of South Dakota or other organization or by any city or town of such county and the remainder or all of such compensation, together with the cost of transportation of such nurse, or nurses, within such county, shall be paid out of the general fund of such county, unless the commissioners shall, by resolution, provide for payment from some other fund. The person so employed shall be known as the "County Nurse" and shall possess all of the qualifications now or hereafter required by law for professional regularly graduated and registered trained nurses in this state and when in the discharge of her professional duties she shall wear, in addition to her usual nurses uniform a badge or brassard bearing the words "County Nurse."

§ 4. The board of county commissioners of any county may at any time when in their judgment and discretion the public health and interests of such county will be benefitted thereby, take the same action for the employment of a county nurse, as though an application or petition therefor had been previously filed.

§ 5. The county nurse shall, in conformity with the rules and regulations of the state board of health and medical examiners, perform such professional services as the county board of health, or county commissioners, shall deem necessary for the protection and preservation of the public health and to this end the board of health or commissioners may require said nurse to make a physical examination of the eyes, ears, nose, throat and teeth of any or all pupils enrolled in the public schools of the county and to forthwith confidentially report to said board of health any cases which in her opinion are cases of tuberculosis, infantile paralysis, diphtheria, small pox, scarlet fever, measles, chicken pox, or any other contagious, communicable or other disease disclosed by such examination; to visit any private or sectarian school which holds itself out to the public, or any part thereof, for the education of children and make similar examinations of pupils or inmates therein and report confidentially to the Superintendent of the Board of Health and to the parent, guardian or legal custodian of such child; to visit any person, or persons, in any hotel, rooming house or family home, afflicted with tuberculosis, or other contagious or communicable disease, and to assist and direct in nursing such person or persons and to advise and direct as to the proper method to prevent the spread of such disease, such visiting in family homes to be with the consent of such person, persons or family, or upon the written order of the Superintendent of the County Board of Health; to visit any pest house or house of detention where any person afflicted with contagious disease may be isolated, and assist and direct as to the proper care and nursing of such person, or persons; to act as visiting nurse throughout the county, or any portion thereof, and in gathering statistics or diffusing information with reference to the protection and preservation of the public health.

§ 6. When the county nurse is not needed in the general work of the county she may be employed by cities, towns, associations or private individuals at such rate of compensation as the county commissioners may fix the same to be paid to the county and placed to the credit of the fund from which the salary of the county nurse is paid.

§ 7. It shall also be the duty of the county nurse to make a confidential written report in duplicate showing in full the services rendered during each calendar month and to file one with State Board of Health, and one with the Superintendent of the county Board of Health on or before the fifth day of each succeeding calendar month; such report to be upon blank forms to be furnished by the State Board of Health and to set forth the number of visits made to homes and schools and other visits, if any, the names and residence of persons whom she believes to

be afflicted with tuberculosis and other contagious and communicable diseases and such other information as may be required of her and such recommendations as she shall deem advisable.

§ 8. That it shall be unlawful for any person, or persons, to refuse to receive such county nurse into private homes, schools, or other places when in the discharge of her official duties as such.

§ 9. That any person violating any of the provisions of this act shall be guilty of a misdemeanor.

Source: Ch. 149, S. L. 1919.

INVENTORY OF PROPERTY BY SCHOOL OFFICERS

§ 7048. **Duplicate Inventories of All Public Property Required of All Officers, How Made and Filed.** Every state, county, municipal, township or school officer, including the officers and employes of each state institution and department having in his custody any public personal property of any kind or nature, shall annually on the first day of July or within ten days thereafter, make in duplicate, an inventory of all such public personal property, livestock, machinery, vehicles, tools, apparatus, books, furniture and other office supplies, including articles intended for use such as clothing, fuel, provisions, farm products, medicines and chemicals, which inventory shall show the cost price of each item therein, and when the cost cannot be ascertained the estimated value thereof; shall forthwith file, as herein provided. All state officers and employes of departments shall file the duplicate inventory with the state auditor; all officers in state, charitable and penal institutions with the secretary of the board of charities and corrections; all officers in state educational institutions with the secretary of the board of regents; all county officers with the county auditor; all municipal officers with the city auditor or town clerk of their respective municipalities; all township officers with the clerks of their respective townships and all school officers with the county superintendent of schools of their respective counties.

Source: §§ 1-3, Ch. 220, 1903; § 1, Ch. 293, 1913.

§ 7054. **Every Officer Delivers Property to Successor, Receipt Filed.** Every officer enumerated in the first section of this article shall turn over all the public personal property in his possession to his successor in office and shall take the receipt of his successor therefor, and shall file such receipt in the office where he is by this article required to file the inventory of the personal property in his possession. Every officer enumerated in the first section of this article shall, upon assuming office, give a receipt to his predecessor for all public personal property turned over to him.

Source: § 7, Ch. 293, 1913.

§ 7055. **Penalty.** Any officer who fails to comply with any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished accordingly.

Source: § 8, Ch. 293, 1913.

§ 7056. **Civil Liability.** In the event of the disposition of any of the personal property above mentioned, by the respective officers, without complying with the requirements of this article, such officer shall, in addition to the penalty prescribed in the preceding section, be liable for the value thereof as shown by the last preceding inventory, to be recovered in a civil suit.

Source: § 9, Ch. 293, 1913.

§ 7053. **Property Purchased, Noted in Inventory.** When any personal property is purchased by the state or any county, city, town, township or school district, to be utilized in pursuance of the duties of the office for which supplied, a note shall at once be made of its purchase and receipt in the inventory book for that year.

Source: § 6, Ch. 293, 1913.

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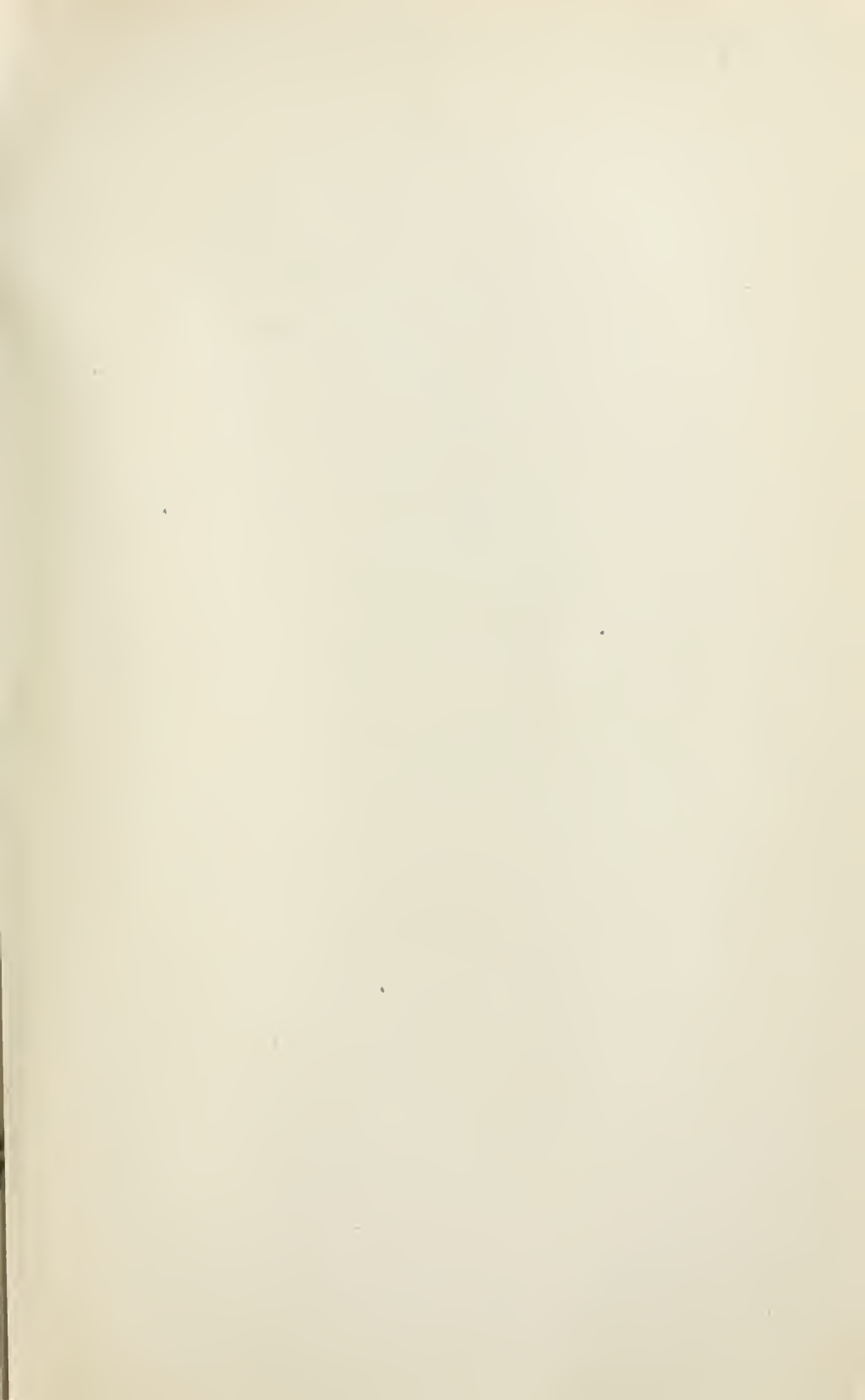
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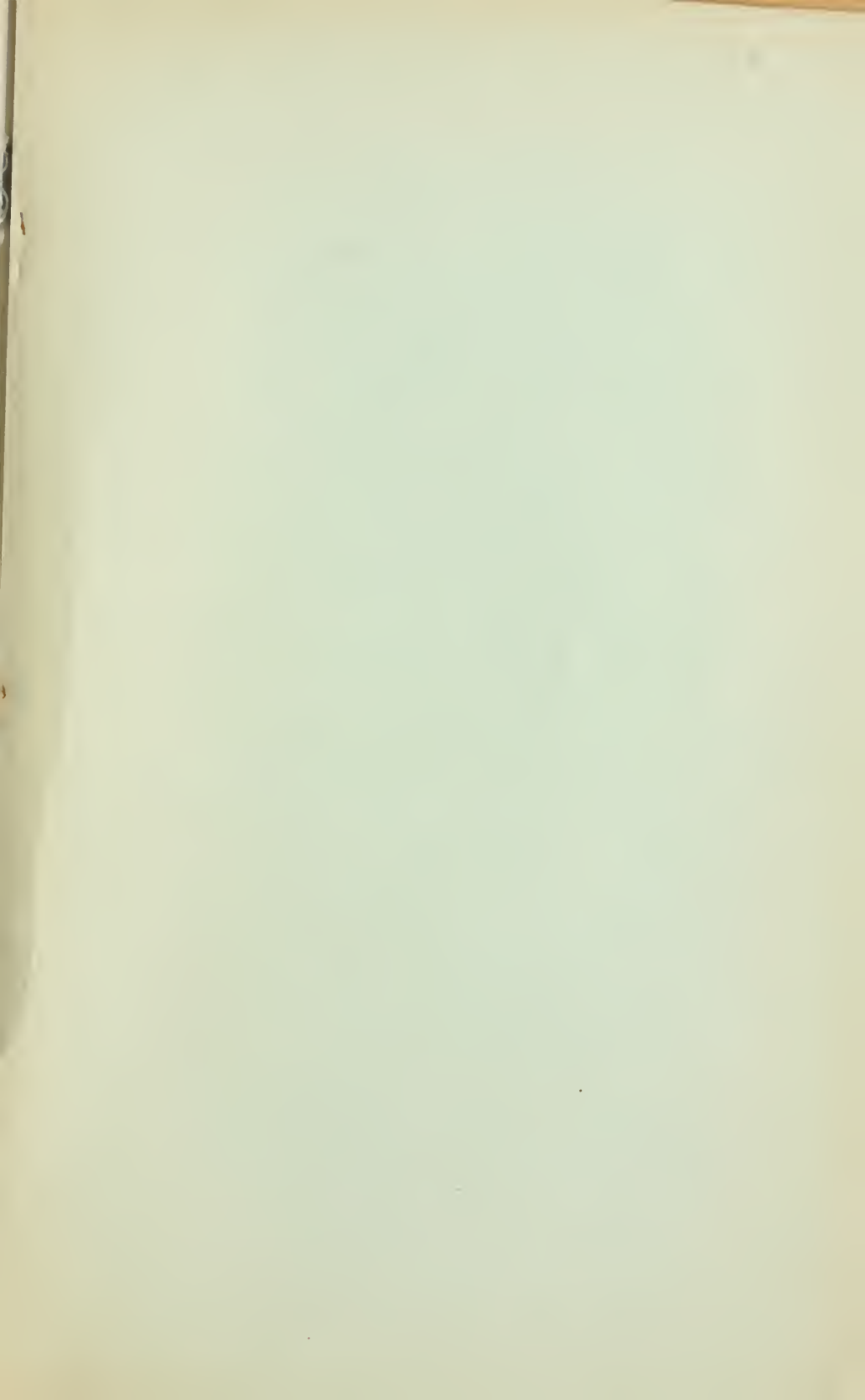
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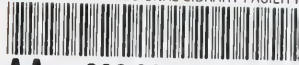




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